FORTY YEARS

OF

OFFICIAL AND UNOFFICIAL LIFE

IN AN

ORIENTAL CROWN COLONY;

BEING THE

LIFE OF SIR RICHARD F. MORGAN, Kt.,

QUEEN'S ADVOCATE
AND ACTING CHIEF JUSTICE OF CEYLON.

BY

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CHAPTER I.

1867—1869.

WORK AT HIGH PRESSURE.

Writing in 1874 to the Honorable Justice Cayley, of the Supreme Court, Mr. Morgan asked for a copy of some lines commencing 'Why do we ride at the pace that kills?' which he said he wished to enter in his commonplace book. Mr. Morgan added, 'I always think of these lines in connection with Lorenz. It is three years to-day since he died.' The sentence quoted is very characteristic of the unselfish character of the man: he was always ready to consider others before himself, and to apply to his friends and relatives reasonings and arguments which common prudence indicated he should have considered in regard to himself. Had he been more solicitous of his own health he would have seen that in 1867 he was himself proceeding at 'the pace that kills.' So far as public usefulness and private effort are concerned he was more worried and harrassed then than at any other period of his career. Apart from the anxieties attendant upon his position in the State, he was much troubled pecuniarily, liabilities accumulating and expenses increasing. To the pressure induced by these things he nearly succumbed; he suffered from a serious illness—to be described later on—but eventually recovered. From that time forward it is clear that Richard Morgan's best work in the world had been done. The succeeding record will show that he did many things, and notable things, but it was with a

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sense of failing power, and amid anxieties which to those who knew them moved to the sincerest pity. His humility and dependence upon a strength greater than his own, which were marked characteristics of the whole of his career, stand out more clearly at this period of his life than at any other. In turning over the pages of his diary, and marking the fervid out-pourings of his soul to God for greater personal purity, for pardon, for peace, and for guidance in the way everlasting, the present writer finds much to move even to tears. A great portion of what is thus written by Mr. Morgan was meant for no eye but his own to see, as his frequent prayers were intended for no ear but the Almighty's. Many pages of manuscript must be turned over reverently and passed by with sympathy and love; they cannot be reproduced in any delineation of Richard Francis Morgan's character, however necessary they might be to make that delineation thoroughly clear. These remarks are desirable to do justice to a side of Mr. Morgan's character which few, who knew him, suspected. He was known to be religious, but how deeply so, only his most intimate friends could guess, and their guesses came short of the mark. He was one who believed 'with fear and trembling.' An entry in his diary in 1867 shows this. He says:—'D. called in the morning to speak about ——'s affairs, and to ask us to go to a Bible meeting to be held this evening in his house. He said he would himself principally conduct it, and the particular subject for discussion was the book of Jonah. Excused ourselves: not that I have any objection to such meetings or that I join in the fashionable cry against them—but, simply and truly, because I think myself unworthy of them. It appears to me a wrong thing to go to such places and win the character which attaches to men who delight in such good things, without any pretensions to such character

in reality. The confession is a humiliating one that I have no pretensions to such a character, but better that than that I should be a hypocrite. D. took my Smith's Dictionary of the Bible on loan.'

Again, "I awoke this morning after a very bad and unrefreshing rest. I read the book of Ruth, which charms one by its simplicity. The devotion of Ruth to her Naomi strikes one as much as ever: "Intreat me not to leave thee or to return from following after thee: for, whither thou goest, I will go; and where thou lodgest, I will lodge: thy people shall be my people, and thy God my God: where thou diest, will I die, and there will I be buried: the Lord do so to me, and more also, if aught but death part thee and me." Naomi's advice to her after Ruth went to Boaz to claim the right of kinsmanship, in the unsophisticated manner of the Jews is consoling, "*Sit still* my daughter until thou know how the matter will fall," so it behoves us when in trouble to put our trust in God and sit still. So in Isaiah, chap. 30, v. 7. "Their strength is to sit still," believing with the Psalmist, "Though I walk in the midst of trouble, thou wilt revive me: thou shalt stretch forth thine hand against the wrath of mine enemies, and thy right arm shall save me. The Lord will perfect that which concerneth me: thy mercy, O Lord, endureth for ever: forsake not the work of thine own hands." (cxxxviii, 8.)'

He tried to grapple bravely with his difficulties, and in May, wrote:—'I have been very low-spirited of late and feel the necessity of renewed exertion to shake off this apathy and inward gnawing and to make up my mind to overtake and prove equal to my work. Accumulation of official work—some of a most arduous nature, the Education and Irrigation Committees and the Codifying Ordinances—and the pressure of other embarrassments are the causes, but I am certain that if I can summon sufficient energy and firmness of mind, if I come to a determination

to overcome difficulties with a humble reliance upon Him from whom all good desires proceed and who tempers the wind to the shorn lamb and who never forsakes those who look to Him for help, I can overcome these difficulties and see the smiling face hid behind what looks now a frowning Providence. The necessity for making a proper division of my time, assigning to each moment its appropriate work and keeping firmly to the arrangement so as to drive out indolence and doing-nothingness which more than anything encourage the low spiritedness I suffer from, is becoming more and more evident. *Deo aspirate meis cœptis.*

5 to 7 Scripture, &c., walk, gardening.
7 to 9 Work.
9 to 10 Bath, breakfast.
10 to 5 Work.
5 to 7 Recreation.
7 to 8 Dinner.
8 to 10 Work.

'Work to include reading, but following precedence to be observed:—official work; letters; cases (I. P.); Ordinances.

'E. S.'s wedding, but did not attend. Sent him a reading lamp. He is clever, and only wants to exhibit steady perseverance to ensure success. Had an Irrigation Committee at two, in which much important work was done.'

As an Evangelical Episcopalian Mr. Morgan was strongly opposed to ornate services. In the following passage may be seen a token of opposition to ritualism which was exercised almost to the last day of his death:—'Troubled about my English letters, and as if that was not sufficient the girls brought to me a pastoral letter circulated by —— which bothered me greatly. He proposes to have a separate Sunday evening service, essentially choral, to use, "Hymns, Ancient and Modern," and

refers mysteriously to "concentrating the lights," adding to colour and ornament, &c., &c. His excuse for all this is that a not inconsiderable portion of the congregation have expressed their wish to have these innovations, and that he could not, by refusing them, encourage divisions which might rend asunder the church. All this is simply false. Excepting a few of the children who will always be allured by novelties, there is no foundation for the excuse, which is only a silly pretext. It is clear that we must act, but we must act with discretion, for it is obvious that we have to deal with a man not easily turned from his purpose. I wrote a letter to be addressed to him by the trustees, also a paper to be signed by the congregation, and a set of resolutions to be adopted by the trustees.'

The letter and resolutions were subsequently adopted by the Trinity Church congregation.

One incident of this year deserves notice, not so much for its intrinsic importance as for the glimpses which are given of the 'lobbying' which sometimes takes place in regard to appointments in Ceylon, and as exhibiting the manner in which race-questions are brought into prominence. The appointment in question was the District Judgeship at Kandy. One of the candidates—the fittest, and the one with best claims, was Mr. Owen Morgan, nephew of the Queen's Advocate: the other aspirants need not be named save that one was an Englishman and the other a burgher. The Englishman is the present Queen's Advocate of Ceylon. On April 20th, says Mr. Morgan, 'I waited on the Governor who received me very kindly. He spoke of the vacancies, and said that the Colonial Secretary had recommended —— to succeed Mr. Berwick at Kandy, that —— had himself called on him and told him that I was not opposed to his getting Kandy, but that the Governor said he would do nothing until he saw me. I

spoke to him regarding —— He said that if C. would take the place, he would give it to him, but that C. must be prepared to take up the subordinate office in case —— returned. I asked him whether this was likely, and told him that it would be hard on the Kandy suitors if he were allowed to go again there as Judge. He said he quite thought so. That it would not do to appoint —— if it were merely to give him the place on the understanding that he would not, if need be, take it up, but that his not holding the permanent place would be no bar to his getting the Deputy Queen's Advocateship for the island whenever it became vacant. He authorised me to tell —— of this. I then submitted O. M.'s claims which I thought better than ——, and ——'s claims to be confirmed. He asked me to ascertain C.'s views and submit mine in writing.'

'15*th April*.—Heard of the Governor's arrival at Colombo this morning. Went early to the office, as there were lots of work. Saw —— explained to him that I had a difficulty in answering his letter. Reminded him that I had already stated what I believed were the Governor's and the Colonial Secretary's views as respects the Kandy appointment, and how favourably disposed they were towards him—that, as head of the department, I felt that it would be unjust to O. M. if ——got Kandy over his head, that I could not ignore ——'s superior claims to a fixed place, that I would not oppose his own appointment and would be glad to have him in the department. He declared himself satisfied, and said that he had seen the Governor who had promised him Kandy. I think that this would be simply unjust, and I will say so. He led on the conversation as respects —— and asked whether he wanted Kandy. I said I believed he would take it and that —— had better right than —— to it, which did not seem to please him. He said he would write to the Colonial Secretary about it. It

will be simply a discreditable job if he be appointed to Kandy.'

'*2nd May.*—I received a letter from G., which annoyed me greatly. He says in it that the Government would appoint ——"to infuse new blood into the department" (insinuation that the stuff was wanted); that it was desirable that "a gentleman of English habits and education who should possess the esteem and confidence of the whole community, European and Native" should be appointed to Kandy. (Insinuation as much against me as against O. M. that O. M. did not and —— did possess such confidence,—a most unjustifiable *a priori* assumption against the one and in favour of the other). Then, to make the insult the greater, "If, knowing H. E.'s views, you should still consider O. M. the person best qualified for Kandy," the Governor will "in deference to your recommendation, (God save the mark!) and on your responsibility (attempt at bullying) appoint O. M. to Kandy and ——to Galle. The fact, however, of Mr. O. M. being appointed to Kandy will not give any preferable claim to promotion when a vacancy again occurs in the higher offices in the department," (a most humiliating condition.) I am excessively vexed at the injustice done to O. M., who has had ten years' service, in favour of a person who has only served for five months, and to ——, who will be thrown out after four years' service (during which all connection as a private practitioner must have been severed) and, what I cannot help regarding, as the gratuitous insult to me.'

A few days later he writes:—'Sorely vexed still at ——'s letter, but must endeavour to view the matter more calmly and to temper discretion with the proceedings which anger would suggest. I have done what was right in recommending P. and ——. The responsibility of the appointment is not mine but the Governor's.' Yet, further. 'Busy almost all day writing to the

Colonial Secretary about the Kandy Deputy Queen's Advocateship. I expressed myself strongly on the job intended to be perpetrated as against —— and for ——, but withal tried to observe due respect. Read letter to —— and ——, and they approved of it.'

Finally, on 21st May, 'I received a letter from the Colonial Secretary in which he tells me that the Governor has appointed Owen Morgan, Deputy Queen's Advocate of Kandy, and —— for Galle. Right as respects the former, but the latter arrangement is hard on ——. I have no doubt that Sir Hercules Robinson has very good reason for what he has done, but the preference is unjust and very hard on ——.'

There is yet one other reference to the appointment which hints at the voluminous correspondence which followed in the local newspapers on the subject. 'Conference with —— and —— as to Post Office. Saw S., who deprecates newspaper discussion on appointment of Deputy Queen's Advocate. Thinks I shall be suspected. I may be, but unjustly—and *Hic murus abeneus esto nil conscire sibi—nulla pallescere culpa.* S. is a bad comforter at such times, for he lacks moral courage and fears man more than God. I have my own opinion of the change, and have made them known to the proper parties and on the proper opportunity. With the barking of *soi-disant* patriots I have no sympathy.'

A number of extracts from the diary may be given here without comment. They speak for themselves.

'2*nd April.*—Had a very long conference with Cowasjie. He apprehends a considerable rise in the price of rice, as Calcutta rates are high and those here low, so that it will not pay to export the grain. I trust, however, we shall be saved a like calamity as that we had last October!

'Last night's *Observer* contains some severe remarks on Mr. Duff. Every one who takes a different view from

that which the editor of the *Observer* espouses, receives far from pleasant treatment.

'Had conference with Lorenz on Fiscals' Ordinance and B.'s case. Settled new conditions of sale. Saw C. in the afternoon. He is tired of Ceylon. Says that I am the only person from whom he met civility here. Complains of the Governor's treatment of him. On his last day at Nuwara Eliya, C. angry with G., who was bothering him about a row he got into with his clerks.'

'*3rd April.*—Attended to the settlement of the call made upon Dunuville's estate by the Ceylon Company, Limited. I am in no way personally interested in this, but, with a view to prevent a forfeiture of the shares, I gave a cheque for £106 odd, and sent drafts of letters to Jayetilleke for the administratrix to write, giving the O. B. C. (my name should not appear) a security on the shares for the advance. I trust to recoup myself shortly by a sale of the shares, but it is inconvenient just now to be kept out of so much money.

'C. called. He is seedy and proposes to go to Nuwara Eliya. Gave leave. I arrived at the office at 11-55 and left 4-55, so that I was five hours there. Lost about an hour talking with L. and A. from Jaffna, who called to see me. A. gave a frightful account of the late ravages of cholera there. Complains that Prideaux Selby is wanting in courtesy to the Bar. L. called about assessment, and M. as to terms of notice. Came home in a pouring shower. Read Barchester Towers till about ten, when I retired.

'*5th April.*—A most enjoyable day this, being the trial trip of the railway. Left early for the station to join Faviell's party. A large number (the Bishop, Wall, Smith, C. P. Layard and Colonel Layard, Colonel Hamilton, Dick, Bois, the Fergusons, Capper, Lorenz, Grenier, C. Ferdinands, Count Thompson, Cayley, Leake, St. Albin, Churchill, and many others) were

there. Started at 8-30, fog signals being let off as a salute. Went at the rate of fifty miles an hour. Stayed at Weangodde awhile, and took sandwiches and beer; went on at same rate and reached Polgahawella at ten. Thence to the incline. Some parts of the road rough and still unfinished, but the ascent up the incline was grand: scenery magnificent, infinitely surpassing that observed from the coach road. The range of paddy fields in the valley under the Allagalla hills was the finest I ever saw. The Sensation Rock and other places noted as being dangerous were bad certainly, but nothing to justify the exaggerated description I have read of them. Altogether the travelling was safer, nicer, and infinitely more comfortable than by coach. On nearing the column at Kaduganawa there was loud cheering. Passed the place and went on to Peradenia, which we reached at half-past twelve. The tiffin was laid out at the station on the Colombo side of the Mahavilla Ganga, but we passed the bridge and went on to the junction at Deltotte road and returned to the station. A great many residents from Kandy were there with a characteristic band of music: these met us at the station, and Tickery Banda had the impudence to welcome us on behalf of the Kandy chiefs! Capital tiffin. The Bishop proposed Faviell's health in a neat speech after Faviell had given that of the Queen. Lorenz led the singing, 'God save the Queen,' and 'He is a jolly good fellow,' after the toasts. We left at three. I rode upon the engine with Molesworth down the incline, and felt nervous as to my seat, for the slightest slip would have sent me over. I enjoyed the scenery much. After leaving Polgahawella, we came at the same rapid rate and reached Colombo near seven. I seldom enjoyed a trip more.

'*9th April.*—Could not do much work in the office to-day, owing to D. taking up much of my time, talking

about the railway trip and cocoanut planting, &c. Had a long conference, however, with P. and H. about the Fiscals' establishment in Colombo, and completed my letter to the Colonial Secretary.

'Had a conference with C. P. L. touching the assessment of Government buildings. The Municipal councillors have agreed to make the reduction which I suggested, so that an appeal will not be necessary excepting as to the Custom House premises. I trust the Governor will approve of the course I took in conferring with Mr. L., instead of rushing into court.

'*27th April.*—Busy all the morning in the garden, and did a great deal towards improving it. I must endeavour to systematise the whole thing, so as to keep the place clean and free from weeds, and as a garden ought to be, but the expense of labourers is very great now, and I am afraid that I cannot do with less than four coolies; possibly an additional one besides to attend to the kitchen garden. Mrs. —— wrote to ask me for an interview on her business with the Company. I do not quite like this, for she evidently wishes to try to talk me over, and considering that I am acting for the Company, and have already given an adverse opinion, she should not do. But I promised to see her in the afternoon. Worked at some private work which had long been standing over—nearly completed my letter on juries. Went in the afternoon to the treasury and had a long conference with V., who shewed me a memorandum of the recommendations made by the Sanitary Commissioners. He suspects that there is more in the appointment than appears on the surface—speaks mysteriously. D., he says, rendered valuable assistance, gave every information and acted cordially with the Commissioners, but he was personally reserved towards them and did not go out of his way to show them civility. Saw S. about responses to church; agreed that that wanted correction, as it gave L. an

excuse for his choral service idea. Saw R., and he signed Trinity Declaration.

'*Sunday, 28th April.*—Went to Trinity Church both morning and evening, and heard two capital sermons from Dr. Boake. He seemed to believe that we are on the eve of a new dispensation. Mrs. —— called in the morning and made me late for church. She is getting troublesome, and though she cloaked her purpose in a multitude of words and professions, it is clear that what she wanted of me was simply to give an opinion in her favour, whereas I had just given one against her, and that upon a dry point of law. All she could get me to do, however, was to promise to write to the Chief Justice and to Mr. Lawson, who, she said, had both given opinions in her favour, and to get their reasons. Busy in the afternoon preparing my codified Ordinance on the "Administration of Justice."

'*1st May.*—The twenty-third anniversary of my wedding! Truly God has been very good to us, for we are both in health and strength, our dear girls well, and our dear boys well too from last accounts. My wife shows grey hairs and other undoubted marks of approaching age, but her heart is as warm as ever, and altogether we feel that we do not love each other a bit the less—on the contrary (if that were possible), we love each other far more—than we did on the happy morn when I led my blooming, blushing, beautiful bride to the altar, and there we pledged our troth to each other. We have loved each other fervently since we have been blessed in our children, loving and being loved by them. Praise the Lord, oh my soul and all that is within me, praise His holy name!'

'*25th May.*—Went to the fort to enquire about the Albert Insurance Company in which I have insured for £5,000. I am afraid it looks shaky. This is hard, as it affects the settlement I have made for my family; but

shall we receive good from the hands of God and shall we not receive evil?'

The decision in the Supreme Court on a case which excited much stir in Ceylon at the time and for several years after, is more caustic than polite to the Judges:—'The Dodangalla Judgment was given to-day quite in my favour. The District Court's finding was reversed in every respect. This and the judgment yesterday in Staples *v.* Saram, I regard as great triumphs in my favour. I cannot say, however, that I respect the Supreme Court Judges much, or rather the Chief Justice, for he is now the Supreme Court, for that judgment, the prevailing feature of which is an anxiety to *do* the defendants out of their Privy Council appeal. The studied way in which the case was put upon facts and the "specific findings" on those facts reminded me of old John Dalziel, who, having come to a conclusion, always so worded judgment on facts as to leave appellants no chance. Made a short abstract of the judgment which I posted to Mr. Kynsey, and prepared a shorter abstract still for a telegram.' The Dodangalla case went before the Privy Council, notwithstanding Sir Edward Creasy's ruling upon facts, and was decided in 1871.

The chief legislative proposals of the year were with respect to Irrigation and Education. The works under the former were to be extended, and new rules introduced: the latter was to be reformed. Some incidents regarding these measures may be mentioned.

'Saw the Governor to-day (September 14th) and had a long conference as to legislation. He thinks there should be an Irrigation officer to report upon all Irrigation works, superintend them, and inspect them, but that the execution of the works should be left to the Public Works Department. He thinks that the Government should be made to contribute one-tenth (which is

its rental) of all works of construction, but that the people should pay a water rate as well as interest on the outlay for construction. When I told him that we were contemplating water rate from 2*s*. to 6*s*. per acre in addition to the one-tenth, he stated that he thought that would do. As to education, he thought we should have a Director-General, "an autocrat" who could act promptly, that he should get £1,200 a year, and be a new man from England. He scouts the idea of —— getting the place, and stated that the Home Government would not hear of the creation of large offices for the benefit of local men. I mentioned this privately to Major Fyers, and he proposed £1,200 in sub-committee as the Director's salary, which was carried among other things.'

Of the debate upon the report of the Education committee alluded to above, Mr. Morgan being Chairman, the following particulars are given:

'*Wednesday, 8th January.*—A field day this in the Legislative Council, and I the principal combatant. After very animated discussions, the Council divided, and it was found that there was a great majority for a single Director minus a Board and for the severance of the connection of the Colombo Academy with the Calcutta University. This brings down the Queen's College. The one regret I have in connection with this subject is that it may, very probably will, estrange me from the friendship and good opinion of Mr. Boake. Having long sat under his preaching I could not fail to appreciate and admire his plain outspokenness, his great earnestness, his unswerving honesty of purpose. These qualities, added to immense erudition and a highly cultivated mind rendered Mr. Boake one of our most valuable members of society. For years he has professed and, I have no doubt, entertained, a good opinion of and friendship for me. But he never forgives any one

who opposes him, and difference of opinion is regarded by him as personal hostility. He has set his heart on Queen's College, and is very angry at my advocating its abolition. I regret this deeply, but I know not how to avoid it. After the most careful and anxious consideration, I have come to the conclusion that the affiliation has done harm to the cause of education. I would willingly, even at the last moment, have agreed to a middle course if I saw my way. At one time I was hoping Mr. Marsh's suggestions would have assisted us to this end, but no, Mr. Boake regarded them as inadmissible, and then there was no hope left of a remedy to the existing state of things. There was nothing else to try. Unless the College was put an end to, costing as it did from £150 to £200 each boy, the Academy would soon have to be given up.

'The debate was an animated one. —— ratted on both the questions, but was beaten. I am sorry for him. He evinces an infirmity of purpose which seriously detracts from his great worth in other respects.

'*Thursday, 9th January.*—I was busy all the morning dictating my speech for the *Observer*. Saw the Governor who paid me a very high compliment in reference to yesterday's debate. He wishes it and the Irrigation debate printed in the form of Hansard, to be sent to the Secretary of State.' From that publication some passages may usefully be cited, showing Mr. Morgan's position in regard to higher education and indicating the respect he had for the Academy. Whilst this subject was under discussion, the official members of Council were informed by the Governor that they were at liberty to vote according to their own judgments.[1]

(1) In an address on the 19th December, 1867, Sir Hercules Robinson said:—'These are the only three points of importance [in regard to education] upon which now any difference of opinion exists; and I think the responsibility of deciding them should rest with the Legislative Council, to the members of which body will belong the credit or discredit which may attach to failure or success. I trust, therefore, honourable members will

Legislation proceeded by Resolution, and a formal amendment having been moved by the Queen's Advocate, it was agreed to unanimously, as also was No. 2 approving the appointment of a Director of Education. Some Resolutions relating to a Board were then read by the clerk of the Council. They were as follows:—

Resolution 3.—That the Director be assisted by a Board, of which he shall be Chairman, consisting of six gentlemen fairly representing the different races and religious denominations of the population.

Resolution 4.—That, when practicable, neither Government officials nor ministers of religion shall be members of the Board.

Resolution 5.—That the Board should be consulted by the Director on questions of principles only, and it should not interfere with his administration of the Educational Department.

Resolution 6.—That it should be open to the Director, if out-voted by the Board, to submit the matter, if he thinks it of sufficient importance, for the decision of Government.

The adoption of Resolution 3 having been proposed and seconded:

The Queen's Advocate regretted that he could not agree to the appointment of a Board. He had given the subject his most anxious consideration, particularly owing to the fact that many of his friends, for whose opinions he entertained the highest respect, thought that a Board was indispensable; but it appeared to him that a Board would only perpetuate the evils which had resulted from the old Commission, and which he was most anxious to avoid. According to the Report of the School Commission, the Board was to consist of an Episcopalian and Presbyterian Minister, a Roman Catholic, and three members representing the Burghers, Singhalese, and Tamils,—seven in all. The Government proposed six members, 'fairly representing the different races and religious denominations of the pupils.' When

come prepared on some future day to express by their votes their unbiassed convictions on those points which are still undecided; and I earnestly trust that in a question of such vast importance, we may be led to right conclusions—conclusions which may serve to advance the cause of sound education in Ceylon, and to promote the improvement and happiness of the great bulk of the population.'

practicable, neither ministers of religion nor Government officials were to be members of the Board. The Board was to be consulted by the Director on questions of principle only, and was not to interfere with the administration of the Education Department, and it would be open to the Director, if out-voted by the Board, to appeal to the Government. There was one advantage in this arrangement over the existing Commission, that the Director was to be the active officer, to be advised, but not always controlled, by the Board. But this advantage was lessened in view of the difficulties which were sure to arise in distinguishing matters of principle from matters of detail. An application for a ruler, map or book was undoubtedly a question of detail; a question whether Baptists were to receive aid in common with other denominations was undoubtedly a question of principle. But there were many questions not so easy of classification. The appointment of a master to a school, viewed in respect of that particular school was a matter of detail; a question might arise how far that appointment would induce like appointments or influence the staff of schools of a like description. It might be contended that in that light it became a matter of principle. If the Board was to be composed of men of active minds, questions of this nature were likely to arise frequently; they would prove perplexing, and lead to jealousies and differences. But whilst the proposed Board, with a Director at its head, was undoubtedly better than the old Commission with only a Secretary, there was this disadvantage in the constitution of the proposed Board, that it was proposed to eliminate from it a very useful element. Ministers of religion were, whenever practicable, to be excluded from the Board. But they were the only men in the country who understood practically questions relating to educational systems. They had paid more attention than others to such questions, which were congenial to, and

connected with, their principal pursuits. But representative men as they were called,—men 'fairly representing the races and religious denominations in the island'—what did they know of education? What course was to be pursued? What books selected? He (the Queen's Advocate) had great respect for his learned friends, Messrs. Coomara Swamy and Maartensz, and if he were in a difficulty in legal matters, he would not hesitate to apply to them for assistance; but he had not the slightest respect for their opinion in educational matters, and the assistance they could render to a Director was practically nil. The Government might exercise all the care in its power in selecting their representative men, but these would represent anything but the wisdom of the country in educational matters. On the whole, weighing the opposite advantages and disadvantages, for there was much to be said on either side of the question, it appeared to him (the Queen's Advocate) better to have only a Director; the sense of responsibility to which Boards were seldom alive would attach to him and produce good results. It might be said that this would leave the Director practically without control. To avoid that danger to some extent the sub-committee recommended the appointment of an educational sub-committee to sit during the recess, and to report to the Council from time to time. Specific instructions were to be furnished for the guidance of the Director and Inspectors, so that but little would be left to the Director's own judgment. Questions of principle were not likely often to arise. The questions most likely to lead to differences of opinion were those connected with the distribution of sums available as grants-in-aid. But the missionary bodies prejudiced by any undue distribution were strong enough, and doubtless would prove willing enough, to complain and make themselves heard. It appeared to the Queen's Advocate,

therefore, better to leave the Director untrammelled than to subject his operations to the control of Boards or Commissions. The Government and the Council ought to prove sufficient as checks on the Director, and the appointment of a Board was only likely to weaken the interest which they ought to take in educational questions. There was always a reluctance to interfere with the dealings of a body of gentlemen—not so with the dealings of a single officer. A sub-committee of Council had this obvious advantage over a Board, that whilst the latter was powerless, if its opinions were disregarded and its recommendations vetoed, members of the sub-committee would be able to appeal to the Council, and thus enforce their views.

An animated debate followed upon this point. Mr. Coomara Swamy argued strongly for a Board saying, 'In this matter of education especially, *vox populi* is really *vox Dei*. This Board will, therefore, be a graceful concession to those who are alarmed at the action of a sole Director. Then after all, as your Excellency put it the other day, this Board is nothing but an experiment. Let us try the Director and the Board together. Should we find the connection bad, we can easily drop the latter, and retain the former.' The Queen's Advocate, replying before the division was taken, said he was aware that a sub-committee of the Legislative Council was not an administrative Board, but there was nothing to prevent the Council appointing a sub-committee every year to consider and report on the state and progress of education. This would give the sub-committee all the power it wanted. The British Parliament, according to Blackstone, could do everything but make a man a woman or a woman a man; without attempting to go that length it was surely competent to the Colonial Legislature to appoint a sub-committee.

The Council divided and the motion—that a Board be

appointed—was lost. The Governor, who had voted on the losing side, said he accepted the decision of the Council with pleasure. He had himself believed a single Director would be more efficient, but that a Director assisted by a Board would be more likely to inspire public confidence than any single individual. However, he gathered from the vote that he was mistaken as regards the public feeling on the question, and he regarded the decision as a vote of confidence in the Government.

These Resolutions having been lost, the Colonial Secretary moved the adoption of the seventh (now the third). It was as follows:—

That the Council concur in the opinion of the sub-committee and the majority of the school commission, that the retention of the connection between the Queen's College and the Calcutta University is undesirable, and the Council approve, in substitution, of the establishment of an English scholarship yearly, and will, if applied to, be prepared to vote the necessary supplies for the purpose.

Mr. Morgan approved of this Resolution, and as in this matter he acted contrary to the opinion of the burgher community generally, the reasons for his action must be given in full. In August 1878, a burgher gentleman in Colombo, in a letter to the present writer, said that the Queen's Advocate had, in this matter of Queen's College, made what was perhaps his greatest official mistake. In this opinion it is probable few will agree after reading Mr. Morgan's speech.

The Queen's Advocate, in seconding the Resolution, explained that one of the questions circulated by the sub-committee shortly after its appointment was as follows:—

'What is your opinion of the quality of the Education, *superior as well as elementary*, imparted in this Colony? What are the defects of the present system?'

Some of the gentlemen who answered these questions entered fully into the consideration of the Academy and the College, and the quality of the education imparted there; and the observations made by them drew the

attention of the sub-committee in particular to the consideration of the connection between the College and the Calcutta University. The question had been asked during an early stage of the sub-committee's proceedings, whether it would enter into the consideration of certain questions in connection with the College, such, for instance, as the appointment of an additional Master, the enlargement of the buildings, &c. But he regarded these more as personal questions than as affecting the general system, and believed that it was not desirable for the committee to take them up. But nothing was ever said or done to indicate that the sub-committee did not invite attention to the nature of the superior education in the Colony; and, as a necessary consequence, to the nature of the education imparted in the College. It would appear that up to 1858 there was only the Colombo Academy, which. consisted of an Upper and Lower School. In 1858, a communication was received from the Calcutta University, enquiring whether arrangements could be made for examining in their own country such Natives of Ceylon as desired to pass the entrance examination. This communication was referred to Mr. Boake, who was favourable to arrangements being so made, and who also proposed to attach to the Academy an affiliated branch of the University under the title of Queen's College. Mr. Boake stated in his letter that 'he and his Assistant could, by giving up a portion of their leisure, assist the students in the first year; that in the second year there would be a 2nd Class, when an additional Master would be wanted, and that a second additional Master would be wanted when the classes amounted to four.' A discussion arose in 1863, in consequence of the Government refusing to appoint a second additional Master. A sub-committee of the School Commission was appointed, and they reported in favour of the additional Master being

appointed. The Government did not, however, make the appointment. Such was the aspect of the question when the present sub-committee had commenced its work. The attendance at Queen's College was as follows:—

	On the List.	Average Attendance.
On the 31st December, 1861...	5...	4
,, ,, 1862...	5...	4
,, ,, 1863...	5...	6
,, ,, 1864...	9...	6
,, ,, 1865...	7	5
,, ,, 1866...	5...	4
,, ,, 1867...	6	6

The highest fees were only fifteen shillings a month. If the sub-committee believed that the number would have increased, had an additional Master been appointed, it would not under the circumstances have hesitated in recommending such an appointment. But the sub-committee did not believe in the efficacy of that remedy: they were of opinion that the means and circumstances of the parents in this country were such that they could not afford to keep their children long in school, and that, as a rule, they were withdrawn from school as soon as they had learnt sufficient to earn a livelihood for themselves. Whilst, therefore, it was necessary and desirable to have in the Academy one or more classes to which superior instruction could be imparted, it was not necessary or desirable to retain the College at a heavy cost. It appeared from a letter of the Revd. Principal, dated the 3rd November 1863, which was referred to during the discussion which took place in Council in that year, that at the date of that letter the College stood as follows:—

1st Class...	1 Student.
2nd ,, ..	0 ,,
3rd ,, ...	1 ,,
4th ,, ...	4 ,,

or six in all. The Government were blamed for not having given the additional Master according to the

promise which it was contended it made when it adopted Mr. Boake's suggestion, and established the College. But it surely could not have been contemplated, when four classes were spoken of, that the classes should be formed in this way, viz., two of one student each, one of no student at all, and one of four. When the word 'class' was ordinarily used, a fair number of students in each class was contemplated, so that it was very questionable whether the Government were bound to provide an additional Master, at a cost of £300 or £400 a year, for the benefit of six students. The Government could not justify the additional expenditure when the results in four years presented the return above indicated. He (the Queen's Advocate,) thought it a pity, however, that the Government did not make the appointment, not that it would have remedied the evil, and enlarged the number, but that it would have demonstrated beyond doubt the fact, that so long as the circumstances of the parents in this country were what they were then, the number of children likely to avail themselves of the advantages of the College would be too small to justify the large expenditure it gave rise to. This was a belief which he had long entertained. He was in England when the new arrangements were made, but as soon as he heard of them he wrote to a friend that the effect of it would be to convert a respectable Academy into a shabby-genteel College. He meant no disrespect by using such a term. If the colony really wanted a College one should have been established with the learned Principal at its head and a proper staff of professors: there should have been no haggling for terms such as would seem to have been made. He would have been glad if things had turned out differently, but the returns shewed that his fears were too well founded. It was stated on authority which he did not doubt, that students had left the College because they complained

that sufficient attention had not been paid to them, and that others were refused admittance because a separate class could not be formed. The number of those who had left or had been refused admittance had not been given. He was certain that it could not have been such as to affect the correctness of his position. A new class it might have been difficult to form, but there could have been no objection to increase the number of boys in each class. But what was the nature of these so-called classes? He held a paper in his hand from a teacher of the College strongly advocating the continuance of the College: but in which that gentleman stated, speaking of the present condition of the College, 'The students, six, eight or ten in number, are divided according to the year in which they entered, and classes are thus formed, containing one, two or three students each.' He added in another portion of that paper, 'classes have been formed, containing one, two and three students each, such class costing £300 or £400 a year." He (the Queen's Advocate) believed that in a colony like this it was the duty of the Government to provide the people with means of obtaining superior instruction, but to spend it in the way above indicated was a mere waste of public money which no Government could justify. He did not believe that the appointment of additional Masters would add to the number to any great extent. About eighty per cent., it was said, of the boys who came to the Academy never passed to the Upper School. Whether that was the correct percentage or not he had no doubt that a very large proportion left the school, that a very small number passed to the Upper School, and that a much smaller number would pass from the Upper School to the College. This belief did not depend on any evidence received from the committee on that point, for they did not think it necessary to call for evidence, to prove

facts patent to their own senses, and patent to the senses of any member of Council who had been resident in the country for some time. It was said that headmen and chiefs could afford to keep their children long in school, and would do so. Their means were on the whole better than were those of other classes, but their great anxiety was to thrust their children into Government offices as soon as they could possibly do so. The people who wished to secure superior instruction, were generally those residing near towns. The clerks were the most anxious to do so, but, as a rule, they were too poor. A pound or fifteen shillings a month to a man receiving the ordinary salary of clerks, was a very large sum. They had to suffer much distress and misery within their efforts to wear the garb of decent respectability. It was astonishing and most commendable the efforts they were making notwithstanding to secure a good education for their children. He did not say this in an unkind spirit; there was no man who felt for them more than he did, no one would more willingly do all in his power to alleviate their condition. But if their means were small it was idle to expect and wrong to require them to keep boys in school who were sufficiently advanced to enter a mercantile or Government office, or take up any other pursuit which would enable them to earn something to contribute towards the relief of the common burden. Seeing that the number of students who joined the College was small, and likely to remain small, was it just to perpetuate the present arrangement, by which the attention of the Principal and of the English Masters was given to a few, and withdrawn to a very great extent from the many? There was no use shirking the difficulty. There was no use carping at words and expressions and speaking of a middle class able to keep their children long in school though not to send them to England,—which said

middle class was a myth; there was no use talking of a paltry question of £400 being allowed to stand in the way of an useful institution, when the question was not a question of £400. A much larger sum than that would not have been grudged if a reasonable number of pupils availed themselves of the advantages of a College. The question was, how far were the Government justified in spending £800 or £900 on five or six boys—in allowing this number to absorb, to a very great extent, the attention of a learned Principal and trained staff of teachers, to the prejudice of the many boys belonging to the other classes. The committee had also stated in their report, that the curriculum of the University had affected prejudicially the character of the education imparted in the Academy. He saw no reason personally to change this opinion, although he was free to confess that he was aware that he was not a competent judge in such a matter, and that the contrary opinion was held by some men who were undoubtedly competent to form such an opinion. The committee had given their authority for the opinion expressed by them on this subject, and the Council would judge for themselves as to the weight due to that authority. He would rather base his vote for putting an end to the affiliation upon facts which were patent, viz., (1) that the present arrangement involved a waste of money and teaching power, and (2) that, regard being had to the circumstances of the people, the number to avail themselves of the College is not likely so to increase at present or for many years to come, as to justify so large an expenditure. It was principally for these reasons that he recommended the giving up of the affiliation, and because he did so, he was charged with striving to bring about the downfall of the Academy. He would sooner cut off his right hand than willingly do anything calculated to injure the Academy. It was to

the teaching he had received in that Institution that he owed whatever he had been heretofore permitted to enjoy of useful public life. Nothing in his antecedents could justify the imputation that he was likely to do anything calculated to deprive others of advantages which he had himself enjoyed, and which he could never fail to appreciate. If there was one object which he had in view more fixedly than another, since he joined the sub-committee, it was to do all he could to strengthen and perpetuate the Academy. But to shut one's eyes to undoubted defects is not the way to secure this object. Assuming that it was the duty of the Government to maintain an institution where superior instruction could be afforded, still it could not be denied that the people were bound to pay in proportion to the advantages they received. The highest fee now demanded is 15*s.*, and it was less formerly. He had heard Governors and Colonial Secretaries of the most liberal dispositions say that the average cost of boys in the Academy to the Government was unduly large. By joining the Lower with the Upper School, and taking the aggregate expenditure, the average cost was reduced; but it had been contended, and not without reason, that each school should stand or fall upon its own merits, and a proposal was made, more than once, to separate the two schools. What had been done before, might be done again, and so long as the cost continued large, the institution would remain an object for the finger of retrenchment to point at. His (the Queen's Advocate's) object from the first had been to remove all objection to the combination of the two schools, which combination he abstractedly thought desirable. It was principally to remove the alleged objections, that it was proposed to attach a Normal class to the Academy, instead of having a separate establishment. If there were Normal pupils a preparatory school was wanted

for them in which they could be exercised as teachers. That was at once a good practical reason for retaining the Lower School. If the Academy had to prepare teachers for the different schools of the island, the Academy was necessary for the purposes of education generally in the island, and the immediate advantage it secured to the pupils could be no longer regarded as the only practical result secured to the country by that institution. There was at once a good practical and financial result. It would be thus strengthened and perpetuated, and the removal of the College would secure to the institution generally, and not to one or two classes in particular, the immense advantages of the present Principal's ability, energy and experience. He would be left free to supervise the institution generally and more actively than it was possible for him to do under present arrangements. The other classes in the school would benefit more than they then did by the labours of the English teachers. The large majority of the boys who left school early would not only be thus profited, but there would be classes for the few who remained to pursue their studies further, and there was no reason why the curriculum to be prescribed for these classes should not be as good as any which the University prescribed. If, on the other hand, that curriculum was not suited to the requirements of this place, it could receive the necessary amendments. So long as the institution was bound by the affiliation, the University authorities dictated to it, and it was bound to follow the curriculum, and even the books prescribed for it. The local Examinations which had been in operation for some six years furnish a very good standard. A higher examination for the classes referred to would have to be prescribed. The proposed exhibitions, one a year, (or as he would prefer it, three for once in three years), would, he believed, prove more

attractive and do more good than the affiliation with the University which only one student had for the last nine years been able to avail himself of. If it were deemed desirable to retain simply the entrance Examination, and the new Director could devise means for doing so consistently with the curriculum suited for the circumstances of the country, he personally saw no objection to this being done. He confessed the discussions which had recently taken place on the subject had led him rather to modify his opinion as to the entrance Examination. By these means he fully believed that the institution would be placed on a permanent footing, and the education given in it to the different classes would be made thoroughly good. One other result would also be attained. It was painful to notice the effects of the long-continued discussion as to an assistant Master. He cared not to enquire why it should have been so, or who was to blame for it, but its effect had been to place the Government and the Academy in an antagonistic position to each other. Time was when Governors, Colonial Secretaries and Chief Justices used frequently to visit the Academy, which they took a pride in almost above all other institutions with which Government was connected. For years past there had been only contentions and differences; an angry feeling on one side or the other. He trusted that one result of the new arrangements would be to put an end to this most undesirable state of things.

Mr. Dunlop moved an amendment to the effect that the point should be deferred till the arrival of the Director. Mr. Coomara Swamy seconded the amendment, and a lively discussion ensued, the Queen's Advocate replying with some point. When the amendment was put only three members voted for it.

The other points raised were of minor importance. So far as the day's debate was concerned, Mr. Morgan had carried his views all along the line.

The extent of Mr. Boake's resentment (alluded to on a foregoing page) was exhibited in the shape of letter of sixty-two pages (!) small-post quarto, written closely. After referring to the 'mortification' to which he was being subjected by one whom he had looked upon as a friend, and hoping he should learn the lesson such trials were tended to enforce, Mr. Boake added, 'I do not feel that it is inconsistent with that humble submission to the dispensation of Providence, which I am sincerely desirous of exercising, to endeavour temperately and moderately to remonstrate against injustice in any instance in which I may consider myself to be aggrieved.' Then followed the deluge—as 'temperate' and 'moderate' as is a cyclone in the China seas. Serious charges and ungenerous imputations were scattered freely through the letter, which concluded thus:—'I could point out, in the table in which you shew forth the plan on which you propose to remodel this institution inaccuracies as great as those which I have already exposed, but I am wearied with the disagreeable task, and, for the present, I take my leave of it.' The letter was afterwards printed for private circulation, and some of the gentlemen incriminated wished to enter actions for libel against Mr. Boake, but were dissuaded by the Queen's Advocate, who, for his own part, treated the letter with silent contempt.[1]

(1) The tenor of Dr. Boake's letter may be judged from its opening paragraphs which were as follows:—

'QUEEN'S COLLEGE, *November 23rd*, 1867.

'DEAR MR. MORGAN,—If I had been removed from Ceylon five years ago, I should have carried with me an impression of the estimation in which I was held here, after my twenty years' sojourn, very different from that which I have now learned to be true. The process by which I have been taught to know my mistake, has been a painful one, having consisted in a series of shocks to my feelings, of which that inflicted upon me by reading the Report of the Committee on Education, of which you were the chairman, has been neither the least unexpected nor the least distressing.

'It may be that the belief that I stood well in the estimation of those amongst whom I had spent so large a portion of my life, caused me to entertain too high an opinion of myself, and that, in order to make me humble, it was necessary that I should learn how very superficial was the regard entertained for me by those whom I supposed to be my friends.

In October, Mr. Morgan had a serious attack of illness, which he thus describes :—'On the 25th October (Friday), I awoke in the morning to find that I was suffering from facial paralysis, which confined me to the house for about three weeks, for I could not attend Council on the

'However that may be, while I hope to be able to submit with due resignation to all the mortifications to which I am now, or may hereafter be exposed, and to learn from them the lesson which they were doubtless intended to teach me, I do not feel that it is inconsistent with that humble submission to the dispensations of Providence, which I am sincerely desirous of exercising, to endeavour temperately and moderately to remonstrate against injustice in any instance in which I may consider myself to be aggrieved.

'The Report to which I have alluded appears to me to afford ground for such a remonstrance.

'When I first heard of the appointment of your committee, and learned the names of the persons of whom it was composed, I congratulated myself on the prospect of having full justice done to me by a body, the chairman of which was one whom I had for years been in the habit of regarding as a friend, while one of its members was a pupil of my own, whom I believed to entertain a favourable opinion both of my character as an individual, and of my ability as the conductor of an educational institution.

'My expectations on this head have been altogether disappointed. On reading over your report, I am unable to discover a single sentence containing any recognition either of my labours, or of the success which has attended those labours under circumstances of peculiar difficulty; and, instead of an acknowledgment of the weight which Mr. Pennefather's committee was pleased to ascribe to my statements, in consequence of my long and successful service, I find that the opinions of my assistants and of others, where they differed from mine on matters of fact connected with the state of the institution, over which I have presided for upwards of twenty-five years, have been uniformly adopted, while mine have been either wholly ignored or relegated to an appendix; that both a mode of acting, and a motive for it, have been attributed to me, in the face of my emphatic denial; and that the proofs which I have put forward to show that a remarkable degree of success has attended my efforts, are sneered at, as attempts "to maintain the external signs and statistics of success."

'Before considering those parts of your report, on which I deem it necessary to remark, it will be proper to draw attention to some peculiarities in the manner in which the evidence, on which it is based, was collected.

'I pass over the very great delay in holding meetings of the committee to consider the evidence which had been collected; and shall commence my observations by remarking upon the mode which was adopted in collecting the evidence, and upon the manner in which it was dealt with after it was collected.

'I am under the impression that, in all cases in which a committee has been appointed for the purpose of investigating any subject, and in which there is an honest intention of getting to the bottom of that subject, it has always been the custom, whenever practicable, not only to procure the written opinions of such persons as are supposed to possess valuable information, but also to examine *vivâ voce* not only those who have given written evidence but others also who may have been prevented by any cause from giving written answers to the questions submitted to them. This was the course adopted, I believe, when the state of the Roads Department was investigated, and I know that it was the course adopted by the Cholera Commissioners, whose report I have before me, from which I find that, while fifty-four witnesses were examined *vivâ voce*, only twenty-nine gave written

30th and 6th, though I worked hard at home. "On Saturday (Nov. 9), I had an education sub-committee at home. On Tuesday, I attended a sub-committee in Council, and also saw the Governor, who was very kind to me and expressed much sympathy at my illness. On Wednesday, the 13th, I was at my seat in Council, which I have attended regularly since. My fears at first were that the paralysis proceeded from, or at least was connected with, the head, as there was a slight impediment in my speech: but thanks be to God the symptoms soon yielded to treatment, and it seemed very probable that only some of the facial nerves were affected, the consequence of an exposure to the land wind. Had it been worse it would have been a terrible affliction in the present state of my affairs. But as high as heaven is above the earth so great is God's mercy towards us.'

evidence. The reasons for examining witnesses *vivâ voce* on points suggested by their written evidence, as well as for getting verbal information from any who may, from any cause, be unwilling to commit their opinions to writing, are so obvious, that, when I was informed that your committee had resolved upon confining itself to written evidence, I expressed my dissatisfaction to two of your colleagues, and had nearly resolved that I would take no notice of the written questions which were forwarded to me, a course which I should now regret that I did not adopt were it not for the influence (generally unacknowledged, even where my very words are used) which nearly every page of your report proves that my answers exercised upon your decisions upon almost every subject that you discussed, save my own character and that of the institution over which I preside, both of which were to be sacrificed.

'But your resolution, not to examine witnesses *viva voce* was not adhered to. When the time for drawing up your report approached, I accidentally heard that Mr. Brooke Bailey had been examined in that manner, and that points had been raised with reference to Queen's College, both in his evidence and in that of some of the other witnesses, in which I was most anxious that the committee should not be led away by one sided statements. I therefore waited upon one of your colleagues and stated that I considered that I *had a right to be examined* if any one had; whereupon, but not before, I was invited to attend the committee for the purpose of being examined; and when my examination was over, I went away with an impression, produced by the manner in which it was conducted, that, except upon one point, relating to the Lower School, your committee sought no information from me, having already made up its mind upon all questions relating to Queen's College and the Upper School, and that the form of an examination was gone through merely in order to prevent me from being able to say that the committee had refused to hear me.

'Nor is the manner in which your committee has thought proper to deal with the evidence which you have collected, less unlike that which has been adopted by other committees generally, or by the Cholera Commission in particular, than was the method adopted in collecting it." And so on for fifty-four pages more.

'*Saturday, January* 11*th*, 1868.—Legislative Council closed to-day. The Governor's closing speech was a very neat one, and his quotation from Shakespeare :—

> On such a full sea are we now afloat ;
> And we must take the current when it serves,
> Or lose our ventures :

peculiarly felicitous to describe our condition. We cannot now stand still, but must go on or lose what we have already spent.

'I heard from —— that —— was contemplating an attack on me for having charged him with ratting which he denied. —— however told him that he could not support him, which induced my friend to hold his peace and stay his contemplated attack.'

Among the interesting notes of this period is the following :—

'COLOMBO, 20*th November* 1867.

'MY DEAR S ——, Many thanks for your kind enquiries. I am all right now and was hard at work all yesterday preparing appeals. Molesworth is back, and I will certainly not delay A.'s matter longer.

'I hope V. is getting on steadily now. The game is in his own hands if he will but realize his position and determine to amend. It all depends upon one's own will, supported of course by Him who tempers the wind to the shorn lamb, and who is always ready to help those who help themselves.

'A remark of Fowell Buxton strikes me with great force. "The longer I live the more I am certain that the great difference between men—between the feeble and the powerful—the great and the insignificant—is energy, invincible determination : a purpose once fixed, and then death or victory. That quality will do anything that can be done in this world; and no talent, no circumstances, no opportunities will make a two-legged creature a man without it." '

During 1867, the following letters were addressed to Sir Hercules Robinson by the Owen's Advocate; they are of particular interest as bodying forth a scheme of codification which Mr. Morgan lived successfully to carry out:—

'*March* 11*th*, 1867.

'I beg to acknowledge the receipt of your Excellency's letter of the 7th instant, and of the copy of the Hong Kong Ordinance which you were good enough to send me. It will give me great pleasure to act with the Chief Justice in preparing an edition of our laws on the same principle.

'It appears to me that to make the work really useful, we ought to go a little beyond the Hong Kong Act and to give the Commissioners power, not only to collect the different Ordinances in force but, to collect and arrange them under proper heads. The Hong Kong Ordinances date only from 1844, and are the collection of nearly twenty years; it is a common thing for us to have half a dozen and more Ordinances bearing on the same point. Take the Supreme Court, its constitution, jurisdiction, &c. There are the Charters of 1833, 1843, and 1845, the Ordinances 9 of 1843, 20 of 1852, 18 of 1865, and 28 of 1865. Little good will be gained by placing the Ordinances in the order of date omitting the repealed portions. It would, on the other hand, be a great convenience if the different provisions were arranged under proper heads so as to have them all in one view. I send a few of the first sheets of the Ordinances affecting the administration of justice as explanatory of what I mean. (The preliminary sentence may be omitted, and only the words of the law retained.) I send also the abstract of the Marriage Ordinances lately prepared by me by way of illustration. An edition so collected and arranged, would not only be useful at present, but would facilitate the future codification of one in which

also Sir Edward Creasy has promised me his kind assistance.

'Mr. —— is a very superior young man, and one whom I would gladly work with. But he is not the kind of person likely to give the Commissioners much assistance in such a work. It is not as if there were papers to "precis," correspondence to carry on, and report to prepare, for all which a person of Mr. ——'s qualifications would be invaluable. Whoever is appointed Secretary, work of this kind must be done by the Commissioners themselves. I mean to say the examination of each particular enactment, to see what portion is repealed, what has ceased to have force, and what is still law must be done by ourselves. Again, many of our old regulations have expired, and, to ascertain this with certainty, we have to look up the papers connected with these regulations. This is no easy work. Owing to the arrangement, or rather want of arrangement, of papers in the Record Office, I have frequently had to spend hours in search of documents. What we want, therefore is one or two hacks, intelligent no doubt, but not of Mr. ——'s superior stamp who would use the pen and scissors freely under our directions, copy what we prepare and go about to search for and procure the necessary papers for us. I should, of course, readily work with Mr. ——, should your Excellency appoint him, but I confess, having regard to the nature of the work and my own convenience, I would prefer two clerks such as I can pick up from among the young proctors and apprentices.

'I say my own convenience, for the work is not such as I can do during office hours and in the office. What I propose is to devote a portion of my mornings or nights to preparing the different enactments and to send them on from time to time with the connected papers to the Chief Justice. He will then be able to revise them and be

prepared beforehand for the consideration and discussion of difficulties when we meet in Colombo. This is about the most practical way of dealing with the work so as to complete it in four or six months. The men likely to afford me real assistance are such as I can get to come home and work with me at my convenience, and, of course, I could not expect or ask Mr. —— to be so employed. Another reason is that I am anxious to retain him, if possible, in his present office. In a day or two your Excellency will receive an application from me for a new deputy for the Eastern Province to be stationed at Batticaloa. I really cannot get on without one. It is inconvenient to the public service that Mr. Mutukistna should be absent for protracted terms from Jaffna, and there are suits of importance involving title to valuable lands which I have no one to conduct at Batticaloa. I was glad that your Excellency was satisfied with Mr. ——'s explanations, but considering his relations with the headmen, and the amount of feeling which recent proceedings have given rise to, it would be well if Mr. —— could be removed to another station.

'I will address your Excellency in a day or two on the subject of the Jury Ordinance.

'I will do all in my power to secure a fair working to the Fiscals' Ordinance, and have had long conferences on the subject with Mr. Skinner before he left Colombo. Mr. Hume assumed duties yesterday.'

'29*th October.*

'I feel very much obliged to your Excellency for your kind letter just received. I have asked Captain Fyers to see me to-day and will confer with him as to the best way of proceeding to carry out the suggestions contained in your Excellency's letter. Captain F.'s presence will prove rather an advantage, for, on reading the report, he can suggest the necessity of supplying the different

omissions to which your Excellency has been good enough to call attention.

'The entrance examination, however, I know not how to get over. It was agreed to (I believe Captain Fyers was present then) as a kind of compromise without which we should not have carried the abolition of the College as unanimously as we seem to have done—(I say seem, for, as I explained to your Excellency, Mr. Comara Swamy is disposed to be recalcitrant)—and it was a matter of moment, as the popular voice was likely to be against us, that we should have carried the unofficial members with us on that suggestion. Your Excellency will perceive that that suggestion is put hypothetically, if the course prescribed for the entrance examination could be carried out consistently with the improved curriculum we suggest for the Academy.

'Thinking over the matter since last night, it strikes me that if we could state in the report that, the conditions as to English scholarship being allowed, we recommended the entrance examination being also put an end to, we should carry the unofficials with us, and indeed the popular voice; for the object gained, viz., (that of having a larger field for competition than Ceylon affords to operate as a stimulus to students) will be much more efficaciously secured. The scholarships should be two, not every year, but at a time. This is done in Mauritius, and will soon, in all probability, be done in India. The standard should be high, and it will be some time before fit students can be found, but it will tend very much to encourage the spread of knowledge.

'I do not expect any serious opposition to the Fiscals' Ordinance to-morrow. Mr. Maartensz was with me yesterday and was quite reconciled to the measure; he would only press on the Government the necessity of spending more largely and rendering the department more efficient. Mr. Dunlop wrote to me yesterday, "I

hear the Fiscals' Ordinance is a failure and should be amended altogether. It is expensive and ineffective. If Maartensz and Coomara Swamy don't speak out, I must." I wrote to him in full my views, pointing out (1) that he was mistaken in regarding the Ordinance a failure; and (2) that that was not the question before the Council. On the point that it was better that votes should be left to the Legislative Council than to the Governor and Executive he was agreed. If still against me, I asked him to see me, which I know he will do.

'I ought to mention that the belief is that great good has been done at Kandy where Mr. Skinner is most energetic. I am afraid Mr. Hume has not shewn like energy, but he is most anxious to do what is right. Both these men want deputies and a larger staff. I think the work at Galle is such as to call for a separate appointment. It might serve to show that Government is in earnest to improve the working of the department if it appointed a committee to report upon what further steps it may be necessary to take to make the department thoroughly effective. This will not, of course, arrest the progress of the Bill now before the Council, but the announcement of it will, I think, stop all opposition. If your Excellency agree in this view, the committee might consist of myself, the Surveyor-General, the Government Agent, Western Province, Mr. Coomara Swamy and Mr. Maartensz.

'I am thankful to your Excellency for your kind enquiry as to my health. I think I am better, though not in a condition still to venture out. From a praiseworthy anxiety to cure a slight twitch on one side of my face, the medical men have burnt and sadly mutilated me on the other.'

In 1868, Mr. Morgan, as an official, became mixed up with 'those newspaper men' in a manner that for a time

caused him some anxiety. The story is a long one, *i.e.*, with the attendant circumstances which must be narrated to make the story plain. As all the parties interested, save one—and he but remotely—are either dead or have left the island, there can be no harm in giving the narrative with some fulness.

The agitation fomented by the League continued active. Not only were numerous meetings held in the island but the campaign in England was well arranged. A petition from the natives of Ceylon was sent to the House of Commons praying for a reform in Council, and a debate, initiated by Mr. Watkin, followed, but the cause of the League was not much advanced thereby. The opposition of the Colonial Office increased. There had been a change of ministry, but no change in the *non-possumus* attitude with which Ceylon reformers were invariably received. Mr. George Wall found his visits to the Colonial Office most depressing, even heart-breaking, so determined were the officials not to admit that Ceylon was not being ruled in the most perfect manner imaginable. Mr. Cardwell had given place to the Duke of Buckingham and Chandos, who was now Secretary of State for the Colonies, and, where the Liberal statesmen chastised the memorialists with whips, the Tory noble chastised them with scorpions.

Among other proposals current in Ceylon at this period was one that a Commission should be appointed to enquire into the affairs of the colony. On the 11th of February 1868, Mr. Dias and Mr. Lorenz consulted the Queen's Advocate in his private capacity as to his opinion on the efforts which were being made to obtain an enquiry. Mr. Morgan strongly advised them to give up this object, as it was a most injudicious one, and to confine their memorial, if they deemed another memorial necessary, to praying for a reform in Council. They both appeared to agree with this, and Mr. Lorenz drew up what

Mr. Morgan thought was 'a well-reasoned and carefully worded petition.' It seemed as if peaceful principles were about to prevail, but events speedily turned out otherwise.

On the 13th of February the *Kandy Herald*, a bi-weekly newspaper, was established. It was printed at the office of the *Ceylon Times* at Colombo, but published in Kandy, where its Editor lived and where were its head-quarters. An early number contained Sir Hercules Robinson's despatch on the League petition written in March 1866. The despatch reached the editor's hands with the connivance of men in high authority, and for some time subsequently important documents were placed at the disposal of this section of the press. A leading merchant in Kandy was the medium of communication. After a time the officials anxious for a mouth-piece in the press found they were not fortunate in their selection. But to state this is to anticipate events. The publication of this despatch came upon the public of Ceylon like a thunderbolt—like a bolt from the blue—and raised a strong feeling against the Governor for his trenchant criticism. This criticism was, in some parts, scarcely just, as, for instance, where he charges non-officials with factiousness. Mr. Morgan's opinion was, 'The despatch itself is a most masterly production and its reasoning in general unanswerable, but its publication at this moment of time is most injudicious.' For the purposes of the League the despatch was published at an opportune moment, and a public meeting in Colombo which had been arranged for the discussion of reform generally became an indignation assembly. Very fiery speeches were made and strongly-worded resolutions were passed.

In a small community like that of Ceylon an agitation of this kind could not be carried on without severing old friendships, for a time at least, and breaking up long-

familiar acquaintances Mr. Morgan found himself for a while almost ostracised from his nearest and best friends,—such friends as Mr. Lorenz and Mr. Dias. The Queen's Advocate justifies the advice he gave his friends against agitating for an enquiry in the following passage: 'I think I perceive indications of dissatisfaction at the advice I gave them on the part of Dias and Lorenz, but there are no good grounds for dissatisfaction. I certainly did not believe that the Governor was so strongly opposed to a change in the Council as a careful study of his despatch now satisfies me that he is. A hasty perusal of the document when it was first shewn to me (long after it had been despatched) and discussions with His Excellency since led me to form the impression that the Governor's difficulty laid more in the mode of adding to the Council, where the English interest was already sufficiently strong and representatives from the different native bodies difficult to supply, than in making any addition at all. But this makes no difference in the advice I gave, of the reasonableness of which I felt at the time and feel still fully convinced, viz., that it would be most injudicious to ask for an enquiry in England into *our* affairs. Any reform needed in the institution must be determined upon here where our wants are better understood, as also our difficulties, than in England. What we want is a better Council. How it is to be made better is the difficulty.'

The agitation, however, was to touch Mr. Morgan more closely even than this, and the manner in which it did so is best told in his own words:—

'A supplement of the *Observer* was issued yesterday (Feby. 14th) in which the Governor is most absurdly held responsible for the publication in the *Herald* of the despatch, and unwarrantable motives are ascribed for such publication, such as the desire to diminish Mr. Wall's chances for the chairmanship of the Planters' Associa-

tion ! ![1] What concerns me, however, more particularly is the insinuation thrown out that certain members of the Executive had given out that the Governor was favourable to an enlargement of the Council, which this despatch disproved. I saw ——, who told me candidly that I was referred to, and that he had heard that I had so stated from Sandy Brown and ——, both of whom gave Lorenz as their authority. I saw Lorenz who denied having ever spoken to Brown or —— on the subject, and admitted further that I had never, directly or indirectly, given the Governor as my authority or professed to convey his opinions. He stated, however, that I had said that, after what the Governor had stated in his last Military despatch, he could not oppose a reform in the Council which the Duke of Buckingham was trying, unfairly, to make a tool of. I do not believe that I had quite gone that length, though I am free to admit that I felt and stated privately in conversation, as my own views, that something must be done to prevent any evasion in letter or in spirit of the compact entered into by Mr. Cardwell as respects our Military expenditure, which evasion the Duke of Buckingham's despatch would lead us to apprehend.'

As was only natural the stirring of the waters brought to the surface the difficulty which had been experienced in persuading gentlemen to occupy the non-official seats vacated in 1864. Here is one piece of long-buried disputation which came up:—'Was told that James Maartensz [Burgher M.L.C.] was savage at a statement ascribed to Lorenz in the *Observer*, viz., that "Mr. Morgan told Mr. Maartensz that if he would not join, the Governor would appoint a European, and told Mr. Harrison and Mr. Duff that if they did not join, the Governor would appoint a native," &c., and by such means men were

(1) Mr. Wall was triumphantly elected by a majority of 110 over his opponent, Captain Byrde.

induced to join the Council! Lorenz denies having used names and has promised to get the *Observer* to say so. This ought to satisfy Maartensz who, however, advised by ——, is bent in writing to contradict Lorenz!'

Mr. Wall in two letters to the newspapers, and the League in a long document to the Secretary of State, forwarded through the Governor, replied to Sir Hercules Robinson's 1866 despatch. On these replies the Governor made his comments, and they were forwarded to the Duke of Buckingham and Chandos. A short time after, five or six weeks, an article appeared in the *Kandy Herald*, which was manifestly based on the Governor's reply to the League's letter and also to Mr. Wall's additional letter (addressed to the Secretary for the Colonies) which had been sent to London. Soon afterwards an article, with the word "Communicated," above it, defending the Governor's action, appeared. This was from the Queen's Advocate's pen, and was the only contribution for which he was really responsible throughout the crisis. Mr. Wall wrote to the Governor to ask if the letter was published with the Governor's sanction: not waiting for a reply, he wrote another letter to the Duke of Buckingham and Chandos complaining that the letter had been published through the Governor's instrumentality. By this time the quarrel had waxed so fierce that hard words were used on both sides, and on one occasion Mr. Wall was called a 'reckless and unscrupulous agitator.'

Meanwhile Mr. Morgan had his difficulties with the press-men who had been honoured with a certain amount of confidence—not exactly by men in office themselves, but by their friends in the unofficial community, who, for reasons easy to apprehend, were not enamoured of an Association in which the head of the firm of Messrs. George Wall and Co. was a leader. It must be stated that the amateur journalists proved

hardly worthy of the confidence reposed in them. It is not unknown in statecraft and journalistic experience generally that whole sets of papers relating to particular subjects are occasionally placed in the hands of a newspaper editor, by Governors and others, that the journalists may become fully acquainted with all the facts on important matters and comment accordingly. Where statesmen have honourable men to deal with this course is advantageous to all concerned—the public by no means least of all. An arrangement of this nature was made with the *Kandy Herald*. That it was not altogether satisfactory may be gathered from the following remark penned by Mr. Morgan, 'I am only sorry I am obliged to carry on this intercourse with the ——'s.' Two days later he writes: 'With the *Times* and *Herald*, after what has passed, I would rather have nothing to do.' Mr. Wall, whose activity in the cause of the League and reform was very great, was at this time contributing to the *Colombo Observer* a series of letters signed 'Speculum;' of one of them Mr. Morgan writes: 'Another "Speculum" letter in which I am spoken of very offensively, I would I were free to answer! The charges are untrue and as unfair as they are untrue.'

The 'unkindest cut' of all experienced by Mr. Morgan so far as newspaper warfare was concerned came from the *Observer*. 'Heard from ——,' he says, 'that —— wrote to him a confidential letter about me stating therein that I should be "cautioned." I wrote to ask why, and in what respects, and after sending the letter regretted having done so. Tried to stop it but in vain. I feel more the *Observer's* rebuke than anything else, for I have still a sneaking regard for the old rag.'[1]

The next day Mr. Morgan received a letter from a member of the *Observer* staff, in which the writer remarked

(1). The 'old rag' is a familiar expression often used of the Ceylon *Observer*.

that the Queen's Advocate was said, by every second person he met, to be the life and soul of the opposition to the League proposals, and the writer of the reply to Mr. Mellor, Q.C. Mr. Mellor had earnestly and ably taken up the cause of the League. As a matter of fact the reply to Mr. Mellor came from the Governor's pen. Mr. Morgan was also held by many people to be responsible for the bitterly hostile and personal action of the *Herald* 'in connection with ——.' On this Mr. Morgan remarks, 'How utterly false all this is! I have nothing to do with —— and never had, excepting that I gave him Wall's reply and allowed him to give it to the League. I never wrote for the *Herald*, excepting the communicated article. I have nothing to do with the opposition, and the most amusing part of it is that the *Observer* and his party complain of personality.'

These 'unauthorised publications' had caused some interest in England. Questions were asked in the House of Commons regarding them, and the Colonial Office was worried about the matter. On the 29th of May, Mr. Watkin, in the House of Commons, complained of the unauthorised publication of Mr. Wall's letter in the *Kandy Herald*, and asked Mr. Adderley, under-Secretary for the Colonies, what course was intended to be taken in reference to such a proceeding. The latter replied that the letter was published without the Governor's authority, consent, or knowledge, and that Mr. Wall had himself published the substance in the newspapers.

The whole question was disposed of in the Colonial Office by the Duke of Buckingham and Chandos two days before leaving office. After hearing the whole story from the lips of Sir Hercules Robinson, who had been his Grace's guest at Stowe, the Duke laughed heartily: he said the procedure was not altogether un-

known in England, but statesmen were fortunate in the men they trusted, and the papers regarding the affair (which had caused a good deal of anxiety to several official and unofficial persons in Ceylon) were marked, 'Disposed of.' With this the 'unauthorised publication' episode ended.

The League agitation may be dismissed with a few words. Early in 1869, Mr. Morgan was able, in making a retrospect of the previous year, to say: 'The political animosities which at the beginning of last year marked the quiet tenor of our lives, and, at one time during the year, threatened to produce permanent estrangements; have all passed away and old friendships have been revived.' The fact was that both Whig and Tory statesmen had resolutely set their faces against reform in the Ceylon Legislative. To earnest and urgent entreaties—and Mr. Wall proved the most impetuous and persistent of reformers, deserving success though not able to command it—the Colonial Office set its face as a flint. No change whatever would be granted, not even liberty to officials to vote against the Government on points where they might conscientiously object to what was proposed. At that period a circular was sent to the West Indies from the Colonial Office, which disposed summarily of the question as to the duty of officials to support the Government. If they cannot conscientiously support the Government, it was laid down, they must resign the places in virtue of which they hold seats. After this became known in Ceylon the agitation collapsed, as much from defections in the island as from difficulties in England.

Major General Studholme Hodgson, who acted as Governor during a visit paid by Sir Hercules Robinson to England, pronounced the funeral oration over the League, when closing the session of Council for 1868-69. His Honor said . 'I have now been associated with this Council

for several years, and although I have not taken any active part in your discussions, as I have considered that when I held the subordinate post of Commander of the Forces it was better that I should not be mixed up in local politics but should direct all my care to the preservation of a good feeling between the civil and the military classes, and in which, I flatter myself, I have been eminently successful, I have not the less kept an observant eye on all which has been going on; but now that the reserve rendered incumbent by my military position has disappeared, I venture in my civil capacity of officer administering the government of this important colony—a colony rising each day into greater importance, and which nothing but imprudence and indiscretion can arrest, and towards whose people I entertain the sincerest affection and respect—to record my conviction, the result of most anxious study and observation, that the present form of Government is one quite suited to your wants, and that it would be unwise to introduce innovations or to attempt experiments, however plausible in theory and specious in appearance.

'In a country where the dominant class bear but a very small proportion to the bulk of the population, where their interests are often different, perhaps conflicting, the real responsibility must always remain with the Government; and to make the Government equal to such responsibility you must yield to its power and authority. The fullest benefit of counsel and advice, such as the educated classes, and a council like this representing those classes, are so competent to afford, should be open to the Government; but the power to carry out such measures as it considers necessary for the good of the people must be secured to it, and that power it cannot have unless it has a majority in this assembly. Once interfere with its constitution, so that the Government should be reduced to the position of

making the humiliating confession that it could not venture to propose a measure it conscientiously believed essential to the public service, because it did not feel itself in a position to carry it, you destroy the well-being of the colony and the true welfare of the people. Such a state of affairs must lead to compromises and concessions to popular clamour, which cannot fail ultimately to bring in their train all the evils of a weak and corrupt government.

'I trust you will believe that I make these observations in no captious spirit. Although in my late position and office as the General Commanding the Forces, I was, happily for myself, removed from all the agitations which have recently disturbed the colony, I have not, as I indicated before, been a neglectful or even an unsympathising observer of what was passing. It is always pleasing to witness the efforts of a young colony to share to the fullest extent the freedom which is the birthright of British subjects; more so, when those efforts are made not by Englishmen only, who are naturally impatient of restraints to which they have not been accustomed at home, but by the natives of the soil, whose noble aspirations for freedom, misguided though they might be, cannot fail to bring joy to the heart of the philanthropist. But until a large majority of the people can be enabled by education to understand their rights, in their true and proper spirit; to maintain them calmly and dispassionately; until they can appreciate and be made equal to the benefits of representative institutions, the power and responsibility of ruling the country must be entrusted to the Government, which alone can hold the scales equally between divers classes and interests. Let there be perfect freedom of discussion on all public subjects in this Council; but that being secured, let the Government be in a position finally to carry out its measures. By these means you

will secure the true welfare of the country, and the happiness of its inhabitants.'

Sir Hercules Robinson read this speech in London in February 1869, and told the Queen's Advocate that he suspected the above paragraphs flowed from his pen. But they had evidently been tampered with. The interpolations, such as the 'birthright of British subjects,' 'aspirations of the natives,' 'the philanthropist's heart,' were palpable and, in Sir Hercules' opinion, were a little too much like 'the cosmogony of the world' in the *Vicar of Wakefield.*

During this year (1868) Mr. Morgan proceeded on a visit to his eldest daughter, who had married in the previous year, and was living at Badulla. As he passed through the magnificent coffee country in Uva, and saw the large extent of cultivation, the Queen's Advocate remarked, 'What an opening the burgher young men lost when first estates were formed. If they had taken employment and had proved steady and honest they might have monopolized most of the superintendentships. Now they are very rarely to be found in the estates, and those that are there have mostly proved failures, from what I hear.'

Another visit made to the planting districts is thus described :—

'Visited Tytler at Pallakelly. I had last visited the estate in 1837. Tytler had just then arrived, a thin young man, full of the no-shade principle. I met then Charles Pitts, Gerard, Hudson and Wm. Rudd—in fact, I went with Rudd. Pitts, Gerard, and Hudson are no more, and we alone are left to cumber the ground.

'Tytler gave us a warm reception and did all he could to make us comfortable and happy. He informed us of the system of patriarchal government adopted by him. Offenders are tried by a jury of their own elders, and if found guilty, punished as the jury may direct. He

himself, however, does not hesitate to act in cases which do not admit of publicity; he told us of his caning a Kangani who had been found carrying on an intrigue with a woman, and of his caning two women whom he suspected of infidelity. Every now and then a woman or a man came complaining of some disorder. There was our host with his unfailing medicine chest ready to administer a remedy. He does not tolerate Muniandi on his estate, and preaches every Sunday in Tamil.

'It was wrong in me to include him as one of those left to "cumber the ground," for such a man as Robert Boyd Tytler is essentially a power, a great power; his influence for good is unbounded, and everything around us, the appearance of his labourers in particular, showed that their master was a God-fearing man, and that he strove to inculcate the fear of God and the love of God on all who came within the reach of his influence.

'The effects of "sombrero" on his estate were most marked, and I was delighted to find that, with the aid of this valuable manure, his prospects as an estate owner were brightening. We left the estate about three and returned to Kandy quite delighted, and not a little profited, by our trip.'

An ecclesiastical storm raged during the greater part of 1868, and Mr. Morgan became largely concerned in it. The Bishop of Colombo wished to convene a Synod of the English Church. The missionaries of the Church Missionary Society, acting under orders from the home committee of their society, declined to attend. Evangelical churchmen, among whom Mr. Morgan was one, were equally strongly opposed to the Synod, and a fierce controversy arose. Meetings of churchmen were held, and violent speeches were made. One of the 'scenes' which occurred, and the part Mr. Morgan played in it, may be gathered from the following letter which was addressed to him:—

'The Revd. B. Boake having in a speech delivered by him at a meeting of the Synod, held on the 26th October last, stated that a man of education and of standing in Colombo, (alluding to the Honorable R. F. Morgan), had used offensive language and cast unfounded imputations upon the Bishop and the Synod, "in order to excite the passions of the mob," (alluding to the members of the congregation of Trinity Church), and that he, Mr. Morgan, had succeeded in exciting the angry passions of a multitude (alluding again to the members of the same congregation) whom he had inflamed by declamations against priestcraft and ecclesiastical tyranny, so as to cause them to forget the respect that was due to his lordship as their Bishop, and to drive him away with uproar from the place of meeting, we, the undersigned, members of the congregation of Trinity Church, and others who were present at the meeting referred to, held in the Queen's College, on the 29th September, for the purpose of electing delegates for the Synod, think it due to Mr. Morgan as well as to ourselves, to state that the uproar to which reference is made by Mr. Boake was in no way caused by anything which was said by Mr. Morgan on the occasion in question. That gentleman came forward at the special request of some of us to state the objections which the large majority of the congregation had to the Synod. There was nothing in the statements made by him to excite "angry passions." The anger and the indignation of the parties present were aroused by the attempt made to force the congregation to send delegates to the Synod without giving them the option of considering whether they desired to be represented in the Synod or not, by the apparent disinclination on the part of the chairman to give Mr. Morgan a hearing, by the offensive manner in which the Reverend Mr. Boake spoke, when raising a question of order after Mr. Morgan had stated his

objections; and, finally, by the declaration made by the chairman, without taking the sense of the meeting, that certain gentlemen, who had been named by four of the parties present, had been elected as delegates of Trinity Church. We do not by any means wish to justify the disturbance referred to, which is very much to be regretted, but we think it right that the true causes which led to it should be stated and made known.'[1]

The proceedings at the meeting (so far as they concern Mr. Morgan's action) were thus reported in the *Ceylon Examiner*:—

Mr. MORGAN: Sir, I rise to move an amendment to the motion.

[This was repeated some half a dozen times before Mr. Lovekin would condescend to notice or turn to him. The Bishop[2] then beckoned to the Chairman to hear Mr. Morgan.] My amendment is that all the words after '*that*' in the original motion be omitted and the following substituted: 'the congregation of Trinity Church do not desire to send delegates to the alleged Synod, or to take any part therein, or to be in any way identified therewith.' Entertaining, with many others, strong views against joining the Synod, I am anxious to take the sense of the congregation on the subject. It is open to me to do so either by the present amendment or by negativing the original motion. The latter course may seem disrespectful to the Bishop, who wishes to convene the Synod, as it is not right to meet his call with a sullen 'No,' but to state respectfully the reasons which induce us not to choose delegates.

(1) This letter was signed by the following members of the congregation of Trinity Church and others:—

J. A. Martensz,
James Swan,
H. Dias.
P. W. Vander Straaten,
A. Livera,
H. W. Smith,
Jno. H. D'Saram,
J. de Alwis,
Jno. N. Keith,
Charles Ball,
A. de Saram,
R. F. Vanderstraaten,
J. R. Loos,
E. G. La Brooy,
Louis Pompeus,
Richard Prins,
D. C. Meier,
E. H. Meier,
F. C. Loos,
C. B. Kelaart,
John S. L. Vanderstraaten,
F. J. Staples,
Edward Swan,
J. E. Vanderstraaten,
J. W. Vanderstraaten,
J. N. Keith.
C. N. Corloff,
J. Beven,
P. H. Ephraim,
Archibald Andree,
A. W. Andree,
Charles Johnson,
Richard Andrew,
James Alwis,
James Campbell.

(2) The Right Rev. Dr. Claughton now Archdeacon of London and Chaplain-General of the Forces. (1878).

Further, the objection put in that form may seem offensive to the gentleman named. If the congregation desire to send delegates, there can be no objection to Mr. Stewart. But do they desire to take part in the Synod? That is the first question to be considered. I, for one, certainly do not desire it, and I know that many others of the congregation do not. It is incumbent, therefore, on those objecting to the Synod, to appear and state their objections. A meeting is called to elect delegates, and if those who object do not state their objections, they will be presumed, and very reasonably, to acquiesce, and will, as a natural consequence, be thereafter bound by the election and by the acts of the delegates. If I did not feel strongly that such would be the case, I would gladly have kept away, for with my heavy official work and other anxieties, I have no inclination to trouble myself with synods and convocations. First, let me disclaim, as I most emphatically do, all idea of disrespect to my lord Bishop by the course that we pursue. I know that it has been industriously circulated, that if we refuse to elect delegates, we shew disrespect to and want of confidence in the Bishop. Nothing is further from my intention, and that of my friends. I am not the man to affect a feeling which I do not entertain as a Churchman. I respect the Bishop's office highly. As an individual, having known the Bishop long, I respect and esteem him highly. But with all my esteem and respect, I am not prepared to surrender my private judgment to His Lordship, and, I am sure, I know him too well to believe that he expects anything so unreasonable. There are certain matters upon which it behoves every man to examine for himself and form his own opinions, and the one before the meeting is essentially one of this nature. I feel also that I have a duty towards this congregation, the members of which have honoured me by annually electing me as one of their trustees for more than fifteen years. My views as to this Synod have long been well known to the Bishop, as well as to the congregation. Now that an attempt is made to force us to join the Synod, it would be wrong in me not to join the congregation in doing all in our power to resist it. In stating my objections to the Synod, I beg first to call attention to the judgment in the case of the Bishop of Cape Town *v.* the Reverend Mr. Long, which had led to the establishment of the so-called synods here and elsewhere. It is as follows :—

"The Church of England, in places where there is no church established by law, is in the same situation with any other religious body, in no better but in no worse position; and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body which will be binding on those who expressly or by implication have assented to them.

"It may be further laid down, that where any religious or other lawful association has not only agreed on the terms of its union, but has also constituted a tribunal to determine whether the rules of the association have been violated by any of its members or not, and what shall be the consequence of such violation, then the decision of such tribunal will be binding when it has acted within the scope of its authority, has observed such forms as the rules require, if any forms be prescribed, and, if not, has proceeded in a manner consonant with the principles of justice.

"In such cases the tribunals so constituted are not in any sense courts; they derive no authority from the Crown; they have no power of their own to enforce their sentences; they must apply for that purpose to the courts established by law, and such courts will give effect to their decision as they

give effect to the decisions of arbitrators, whose jurisdiction rests entirely upon the agreement of the parties."

The deductions flowing from this case, assuming it to be good law, are the following :—

1. That it is competent for any religious body to form themselves into a voluntary association and make laws for enforcing discipline within that body, and to constitute a tribunal to determine whether or not the rules of the association have been violated by any of its members, and to determine what shall be the consequences of such violation.

2. That the decisions of such tribunal will be binding on those who have assented to them expressly or by implication, when it has acted within the scope of its authority, has observed such forms as the rules require, if any forms be prescribed, or, if no forms be prescribed, has proceeded in a manner consonant with the principles of justice.

3. That the courts of law will give effect to their decisions, as they give effect to the decisions of arbitrators, whose jurisdiction *rests entirely upon the agreement of parties.*

Thus it will be seen that the proceedings of the body, the tribunal which it creates, and the decision pronounced, must all have for their basis the agreement of the parties. Those who assent expressly will, no doubt, be bound, and that very properly. Those who assent by implication, it is said, will also be bound, and so long as that implication be reasonable and undoubted, this position may also be allowed. But how is that 'implication' to be ascertained ? The construction which the alleged Synod of the Diocese of Colombo has put, and continues to put on this word, or rather the proceeding it has prescribed and has pursued and is pursuing to work out this idea of implication is my strongest objection to that body, and is the reason why I feel compelled to appear before you to-day. Among the rules made by the first Synod there are two significant ones, the first to which I have already adverted, that the rules laid by them 'will bind those who expressly or by implication assent thereto;' and the second that the Bishop shall before holding a Synod 'call upon the various clergymen officiating in the Diocese to proceed to the election of a lay delegate or two delegates (as the case may be) for each separate congregation of which he, the said clergyman, is the officiating minister.' No choice, it will be seen, is left to the congregation. The Bishop orders and the election must take place ; the congregation must send delegates.

The BISHOP : Oh no ! they may not name any.

Mr. MORGAN : Yes, my Lord, if all to a man refuse to name any delegate ; but it is very unlikely that in a large congregation there will not be two or three persons who do not side with the clergyman or the Bishop in their ways of thinking. And it has been asserted—your lordship will correct me if I am in error,—it has been stated, I say, on your lordship's authority, that any number of the congregation, three, four, or five, may meet together and appoint delegates. [The Bishop nodded.] More, I have heard it stated in reference to this meeting,—and the observations of the chairman to-day confirm the statement—that it is not intended to permit the discussion of the question whether or not the congregation desire to send delegates, that that question would be declared out of order, and that the election must

proceed. So that the plain English of the entire proceeding is this, that, though the entire congregation, with some four or five exceptions, may be opposed to the sending of delegates yet delegates they must send, and by the acts of the delegates they must be bound.

The BISHOP: Oh! no, no! I have stated repeatedly and written that they will not be bound.

Mr. MORGAN: Yes, my lord, I have no doubt you have; but what we shall be judged by in the time to come, is not any statement made or written by your Lordship, but by the published acts and resolutions of the Synod. When the resolutions of a previous assembly appeared, the fact that the large congregation of Trinity, of the Singhalese Church, the still larger congregation in connection with the Church Missionary Society, did not join in the Synod, was not made patent. Those here by carefully going over the list might have made the discovery for themselves; but the Secretary of State, to whom the papers were sent, and others abroad, in view of the fact that no dissent appeared, and that the Synod claimed to represent the church in this island, could not but conclude that all the congregations in the island were at one in the matter. Such was the impression of many at the time, and they joined in a protest which was forwarded to the Secretary of State. Mr. Cardwell in reply stated, that he could only receive the resolutions 'as embodying the opinions of those who either have already, or may hereafter express their concurrence in the views which they convey.' The Synod met after this communication was received, and yet it made no change in the rules in this respect. Those rules are still in force, and it is intended now to stop all discussion and to force the election of delegates. Mr. Bell moves and Mr. Boake seconds the election of a gentleman; and he is to go—not as the delegate of Mr. Bell and Mr. Boake, but—as the delegate of the entire congregation. The judgment upon which the Synod is founded expressly declares that its jurisdiction is to be based on the agreement of parties. The Secretary of State tells us that no one is to be deemed bound who does not express his concurrence therein, but the Synod rules that persons may be bound by implication. The Bishop orders delegates to be elected. The Chaplain refuses to allow the congregation to consider whether or not they desire to send delegates. Four or five gentlemen agree upon two men: these men go as the delegates of the congregation! It is impossible for any person with any sense of self-respect to subscribe to such a proceeding. I repeat, and I do it deliberately, that what we shall be judged by, in the time to come, will be not the statements, verbal or written, of individual Bishops, but the acts and resolutions of the Synod. I repeat that if we allow this election to proceed, and do not prevent it or protest unmistakeably against it, we run a great risk of being declared bound by any rules which the Synod may make. No! We must not allow any consideration to prevent our protesting against this state of things and doing our best to prevent it. Let those who please join the Synod and be bound by it. If we are to join, let us do it deliberately and with our eyes open. I shall proceed now to state our reasons for not desiring to join the Synod. In the first place, I doubt its legality. I believe that synods and convocations can only be convened by the Queen's writ. I believe that the formation of an association, 'claiming to be by

representation the church of the Diocese of Colombo' though ' in union and full communion with the United Church of England and Ireland,' is nevertheless distinct from the Church of England, indeed a secession from the Church of England. I believe that the establishment of a tribunal such as the first Synod agreed to be established, though a *forum domesticum* for the investigation, trial, and decision of offences against the laws of the church, is illegal, as giving a Bishop jurisdiction which he has not in a country where the church is not established by law. These are not points upon which I could enlarge in a meeting like this; but the first is well known law, the second and third are established by the judgment of Lord Romilly in the case of the Bishop of Natal *v.* Gladstone. Lord Romilly in reviewing the Privy Council judgment in Mr. Long's case held that the formation of an association claiming to be by representation the Church of the Diocese of Cape Town, though in union in, and full communion with, the United Church of England and Ireland, was nevertheless distinct from the Church of England, indeed a secession from it.

The BISHOP: I think you are giving Mr. Long's words, and not Lord Romilly's.

Mr. MORGAN: Yes, my lord, but Lord Romilly himself uses Mr. Long's words; but adds that Mr. Long held, and held correctly (I will quote his words) that—

if each church is to consider itself a separate and independent church, though in union and full communion with the Church of England, and if each church claim to possess full power to make rules and ordinances for its guidance in each separate colony, and to constitute an ecclesiastical tribunal under the Bishop, and entrust him with full power to enforce such rules and ordinances without any appeal to any tribunal, except to the *forum domesticum* of the Archbishop of Canterbury for the time being, it requires but little foresight to predict that in the course of a very short time, humanly considered, the Colonial churches, though calling themselves in union and in full communion with the Church of England, would in forms and ordinances and in matters of church government, differ widely from each other and from their parent church.

And, again:—

If dissensions arose amongst the members of such a church, they must have recourse to the civil tribunals; but when they did so, the question would be tried by their own rules and ordinances, which would have to be proved by evidence in the usual manner. But this association would not be a branch of the Church of England, although it might call itself in union and full communion with it.

Independently, however, of the legal objection, I have other objections to joining this Synod. My first objection is that I am free now, and that I wish to remain free. If I commit an offence against the laws and discipline of the church, I may be proceeded against, and judged by those laws, but before a civil tribunal—from the decision of which I have my appeal to the Supreme Court, and if need be, to the Queen in Council. But according to the rules of the Synod, the Bishop is to try and decide offences in *foro domestico*. Let us consider the effect of this provision as respects the clergy and the laity. The Bishop by his Letters Patent possesses jurisdiction over the clergy. He may in all grave matters of correction proceed against them according to the ecclesiastical laws of England, to final sentence. But

then those Letters Patent give the clergy an appeal to the Metropolitan. Further they may apply to the Supreme Court which has the same jurisdiction and power of interfering by writ of Prohibition or Mandamus as the Queen's Bench exercises in regard to the proceedings of the Ecclesiastical Courts in England. The clergy, by agreeing to this *forum domesticum*, forfeit their right of appeal. To illustrate this: Mr. Lawson is our judge. We go before him, and if he decide against us, we can carry the case in appeal; but if we appoint George Lawson personally to try any case of ours, we have no right of appeal. But, of course, it was quite competent for the clergy to give up any right which the Queen took care to reserve for their protection, and they seem to have done so. As respects the laity, as I have stated before, if I am to be tried for any breach of the laws and discipline of the church, I must be tried by a civil tribunal, and with all my respect for my lord, and for his clergy, I would infinitely be rather tried by the judges of the land than be subjected to the tender mercies of ecclesiastics. This will be one effect of joining the Synod; but there are others. Suppose my delegate has peculiar views on ritualistic questions, I will not suppose his agreeing to anything egregiously wrong or *ultra vires*, but I will refer to the questions upon which opinions seem now divided in England—the use of vestments, incense, candles, crosses. It is difficult to say, judging from the opinions and counter-opinions that have been given on those points, what are legal and what illegal? Our delegates agree to the use of these in Trinity—they are very distasteful to the congregation; but the delegates have agreed, and we are bound! I have heard it said in reply to this, 'Take care and employ good men'; but you know, Sir, that that is not easily done. A man may agree with us generally, but have different views on particular points. A man may agree with us to-day and differ from us to-morrow. But suppose we are fortunate, and get delegates to carry out our views, what guarantee have we that he may not be outvoted by Mr. Soyza of Moratuwa, De Mell of Korallewelle, De Silva of Panadura, Gomes of St. Paul's, Tenekoon of Kurunegala, or Perera of Kaigalle. But, Sir, if our delegates were ever so good, and if they were able to assert and carry out our views, I would still hesitate to select them, because I think questions of this kind must be decided by each man for himself. I have also heard it stated that if the delegates betray us, it will be time enough then to get them removed; but I fail to see by what process this end is to be gained. A clergyman joining may retire when he pleases, but not so with delegates. Once selected, they have a right to remain till their term of office expires. Again it has been stated that we do not by appointing delegates agree to subscribe to all their views, but that we may from time to time dissent from them, if they propound views to which we could not subscribe. If we have no power to control the delegate, it will be useless to protest against their views further. I do not think it right or honourable for a body of men to meet together and appoint delegates with a mental reservation of this kind. If I appoint a delegate, I must honourably determine to let him act for me within the scope of his authority and to be bound by his acts. An argument has been suggested in favour of the Synod and founded on the alleged moderation it displayed on the last occasion. It is significant that of the four important resolutions which it passed, those

relating to the declaration of principle, and the *forum domesticum*, three were disallowed.

The BISHOP: You are mistaken, only one. The others I gave up.

Mr. MORGAN: Pardon me, my lord. The three were connected with each other and were objected to.

Hereupon Mr. Morgan and the Bishop conversed privately together.

The CHAIRMAN called 'Order.'

Mr. MORGAN: I was anxious to satisfy his lordship that I had authority for what I stated. But supposing this Synod was very moderate, what guarantee have we that future Synods will remain moderate? We know our present Bishop and can confide in him: but future Bishops may not be equally worthy of confidence. I myself have heard very hard things said of a former Bishop. The safest rule in all these matters is to be guided by principle and not with reference to individuals. I look not to the character of particular Bishops and priests, but to the constitution of the Synod, the danger of its being made an instrument for oppression. I fear that it may be made the means of spiritual tyranny. I have no faith in the moderation of ecclesiastics generally. That man must have read history in vain, who believes that Bishops and priests are incapable of abusing their powers. I revere them for their office and will gladly listen to them and be guided by their spiritual teaching; but I dread the idea of giving them power and jurisdiction of any kind or description beyond what they already have. These, Sir, are in short some of my reasons for objecting to the Synod, and having stated them, I will now move the amendment, viz., that no delegates be sent from Trinity to the proposed Synod.[1]

(1) The meeting ended in great confusion, as will appear from the following. Mr. Bonke was speaking, and was called to order by Mr. Alwis, and the Chairman ruled against the call. The report proceeds:—

The meeting hereupon expressed in loud and angry tones its disapproval of the chairman's proceeding, and Mr. Alwis rose to call the chairman himself to order, and insisted on his putting the amendment. The following is our recollection of this little episode:—

Mr. ALWIS: Sir, you are bound to put the amendment to the vote.

The CHAIRMAN: You are out of order, Sir.

Mr. ALWIS: I am not.

The CHAIRMAN: I rule you out of order, Sir.

Mr. ALWIS: I say, *you* are out of order, Sir. This is most outrageous.

The CHAIRMAN: For what I do here, I am amenable to the Government and my Bishop.

Mr. ALWIS: Amenable to the Government, Sir? No, Sir, *here* you are amenable to us and to the congregation over whom you preside.

The CHAIRMAN: Sit down, Sir.

Mr. ALWIS: I will not sit down. *You* should sit down, Sir. It is *you* who are out of order, and commenced the interruption.

The CHAIRMAN: Delegates have been proposed. I cannot allow any opposition to the motion. I declare them duly elected.

This declaration was received by the meeting with a roar of disapprobation. The members rose in a body, crying '*Shame!*' the Chairman suddenly quitted the chair, and was seen no more; in a moment his table was surrounded by a great number of the members; and there was a rattle of loud and angry talk all round the room, and principally at the table. Mr.

It is satisfactory to know that Bishop Claughton cherished no animosity against Mr. Morgan for the bold and outspoken action he took on this occasion. A friend in London, writing to Mr. Morgan in April 1869, said:—'You have, I think, nothing to fear as to your proceedings in regard to the Synod. I met the Bishop last week in the street, and had a few minutes' talk with him. He mentioned your name as one who took a different view to himself, but did not appear to complain that you had gone farther in the advocacy of your opinion than you were perfectly justified in doing. I have no doubt the voyage home has had the same effect on him as on others, and has shown that local feeling is disposed to over-rate the importance of local events and differences.'

Some Teutonic customs are still kept up among the Dutch descendants in the East, and one which is never allowed to pass unnoticed and unmarked is the silver wedding, *i.e.*, the twenty-fifth anniversary of a wedding. Mr. Morgan's silver wedding was on May 1st, 1869. On the morning of that day, looking back upon the past his heart welled up with gratitude. From the day of his marriage, his life had been marked by a constant downpour of God's lovingkindness and tender mercies. Everything that he and his beloved wife could desire, children whom they loved and who loved them, success professionally and officially greater than his early ambition pointed to, far greater he felt than he deserved, and an unbroken course of domestic happiness, were graciously accorded by an All-gracious Maker. 'And if,' he says, 'looking back from the stand-point which this day affords us, there is aught in our worldly circumstances

Boake walked up to Mr. Morgan, and said, 'A waive of your hand will quell this disturbance. Will you put it down, or shall I send for the police?' 'Send for the police!' replied Mr. Morgan, 'I am not responsible for this.'

And then, with a little more hubbub, the meeting dispersed.

to throw a cloud on the sunshine which has been ours it is a cloud which we have perversely and in spite of God's mercies and favours contributed to create ourselves.'

'It was impossible,' he continues, 'on such an occasion as this to avoid giving a party. So we prepared for a ball and supper on the 30th April to avoid running into the Sunday. The house was gaily decorated, the flower garden destroyed to make room for the supper table and a beautiful pandal got up by Migel Muhandiram was erected. From early morning, presents came pouring in. My friends in court and elsewhere (those of Galle and Kandy joining) got up a subscription amounting nearly to £400 and ordered a silver tea service. My children and relatives got up about £100 and sent for some plated centre pieces—neither of which had arrived. The O. B. C. presented me with a thousand rupees in a white silk bag, and other friends sent each some memento of their friendship and good-will. At night we had a very large gathering of all classes. At supper, Lorenz proposed the toast of the evening, the bride and bridegroom. In returning thanks I acknowledged how much (under Providence) I owed of happiness to my marriage with my dear wife, and how it supplied me the motive power of exertion which led to the success, professional and official, which I have been spared to enjoy. I was drawn on (somewhat egotistically but very naturally) to speak of the perfect happiness which my union was productive of. The party broke up at a very early hour in the morning, all having seemingly enjoyed themselves.'

Among the more striking features of the remaining portion of the year were these:—

'*8th August.*—I have made but little progress in my official work, and I am afraid that I shall not have all the draft Ordinances ready before the Governor returns.

Much of my time in the office is wasted by its being the ready resort of idle advocates.

'20*th August*.—Long Executive Council, pretty pleasant. Went to ——'s to dinner as it was his silver wedding. Heard there of the Albert having suspended payment, and read the telegram annexed to this. "Deliver me, oh Lord, from the mire where there is no standing and from the deep waters, lest they overwhelm me." I fully calculated upon the £5,000 for which I had insured my life, there being a provision for my family, but this hope is now taken from me. Would that God would show me a light arising out of darkness. Would that I could amid all the gloom which depresses my soul and quite disheartens me, hear the consoling words, "It is I; be not afraid." The following is the message:—

"BOMBAY, 19*th August*.

"The Albert Life Insurance Company at Calcutta suspended payment yesterday in accordance with a telegram received from London.

"The premia will still be received on behalf of the official liquidator authorized by the Court of Chancery.

"If a reconstruction is not effected on any arrangement made with any other Company, such premia will be returned in full on the first of January.

"Indian Policy-holders are requested to name, by next mail, some Indian holders to confer with the London Directors.

"The Calcutta Enquiry Committee met the Directors yesterday."'

'23*rd August*.—Saw the Governor to-day on the subject of the Ordinances. After they were disposed of, his Excellency informed me that Sir Ed. Creasy had applied for leave, that he did not consider —— either entitled or equal to the place, that the Queen's Advocate was elsewhere entitled to the chief justiceship, and that he was thinking of appointing me, but that he did not quite see his way as to filling my place. I expressed my thanks, but added that I was bound to bring to his notice that whatever practice existed elsewhere, here acting vacancies of the chief justiceship were always filled by the senior puisne justice; that —— was certainly infirm at present, but that as chief justice he could do no harm; that

assisted by Mr. —— and Mr. —— (who, I presume would, in that case be raised to the Bench) he would be equal to the ordinary duties of the place; that he had been so severely afflicted of late that he would feel my appointment as a great slight, and that he was so weak in health that it might prove a death blow to him; that, however thankful I should be for the appointment, and however greatly flattered, still I honestly wished Mr. —— might not be passed over; that I had pleaded before him long, and that my position would be a painful one were I placed above him. The Governor heard me attentively, said he really felt he should not be justified in appointing Mr.—— in his present state of health and that he would consider the matter further. We then discussed other appointments consequent on Mr. ——'s going to the Bench, but His Excellency in no way adverted to what should be done as respects the Queen's Advocateship, should I be raised to the Bench.

'24*th August*.—Saw His Excellency and again pressed what I had to say as respects Mr. ——, but explained that my reasons for not desiring to be appointed chief justice was personal as respects Mr. ——, whose position was peculiar, but that (Mr. —— being out of the way) I should certainly feel it my duty to press my claims as against others. The Governor replied that he considered my claims superior not only to those of Mr. —— and Mr. ——, but to those of Mr. ——. but that after what I had pressed upon him, and in view of the difficulty of supplying my place as Queen's Advocate, particularly at this moment when there was important work to be done during the forthcoming session of the Legislative Council, he would appoint Mr. —— to act as chief justice.

'Have I done right in this matter to myself and my family? I think I have. I felt from the moment the matter was mentioned to me: that (1), for me to allow

Mr. —— to be passed over would be to act towards him in a way that I should not wish another to act towards me were I placed in a similar situation. (2) It would not be prudent, for a mere acting place, to risk the severance of my present business connections. I can only hope that the Power which has guided me all along may over-rule the conclusion of this matter for my good and that of my family.

'31*st August*.—Saw Governor on the subject of the vacancies consequent on ——'s elevation to the Bench. Urged comparative merits of —— and ——, and of —— for Kandy court should —— get Colombo. Also the claims of Kandy to have a professional man and the claims of professional men for Kandy generally.

'1*st October*.—First meeting of the Currency Commission. Rather unpleasant. Gave my reasons fully for considering a rupee *not* a legal tender and a pound in this country being a British pound and not ten rupees. Saw the Governor afterwards by appointment and told him of what had occurred. Among others that D. had mentioned that the Governor had stated there was no objection to an Ordinance making a pound the legal currency, and that he read and recited the draft of such Ordinance. His Excellency wished me to see D. and convey to him that he was quite mistaken and that he was not justified in stating what he had stated. He wished me to do this at once. I accordingly went to the —— and stated to D. that he "was mistaken in supposing," &c., putting things as mildly as I could. D., however, flew into a rage and stated that he was not mistaken, and that he could take his oath of the truth of what he said. I tried to calm him and to persuade him that he was in error, but in vain.

'I found he was angry with me and that he had written an angry letter which, however, he destroyed in my presence. The cause of offence against me was that

I had not "led him" right, that I had not explained to him that I had the strong views as to the rupee not being a legal tender, which I explained to the commission; that had I done so, it would have prevented his taking the position he did in the discussion of the question. I expressed my regret that he should suppose that I had misled him. "Not misled me. I did not say that, but you did not lead me as you should have done." I explained that my views were clearly stated in the printed paper which showed that, when the Governor's currency minute was first submitted to the Executive Council, I agreed with His Excellency in the views therein contained. I pointed out that I had said nothing which could reasonably lead him to believe that I had *changed* my opinion, that my remarks made from time to time had reference to his definitely-expressed wish that the Governor would proclaim the rupee a legal tender and make ten rupees to a pound *local currency*, to which, so far as I knew, the only objections were (1) the theoretical one that it was unsound, and (2) that the Treasury would not hear of it. I desired that this proceeding should be pursued as likely to avoid inconvenience and change, and that all the sympathy I had evinced was in this respect and in this respect only.

'I think D. does me injustice and that he will himself see it on reflection. On the legal question that the rupee was not a legal tender, I had no doubt whatever. All our conferences and discussions had reference to the mode by which the difficulty could be overcome whether by the local currency or by the Indian mode of rupees annas and pice.

'*2nd October.*—Albert Policy Holders' meeting to-day at the U. S. Library. I was called to the chair. It seems the Ceylon policies amount to £63,000 and odd. A committee was appointed to take whatever measures were deemed necessary for the protection of the interests

of the policy holders and a call taken answering to rupees two for each thousand rupees insured to meet the expenses of representation in London.

'*25th November.*—Heard an impressive discourse from Mr. Taylor (a Californian missionary) at the Baptist Chapel from Acts c. 1, v. 8. "And ye shall be witnesses unto me both in Jerusalem, and in all Judea, and in Samaria, and unto the uttermost part of the earth." To be witness we must ourselves experience and feel the testimony of Jesus. No learning, no research, no theology would make up for this. He illustrated it by the case of a witness who could speak not of his opinions, or his thoughts, or his hopes, or his belief; but of matters of fact of what he *knew*. He put, somewhat theatrically perhaps, in the dialogue style of Spurgeon, the case of learned professors being called upon to speak of the correctness of a chart, each giving his opinion, but a plain blunt Captain coming afterwards and speaking of his knowledge. He had found the reef marked in the chart there, the rock here, met with strong currents just at the place indicated. He then related the case of a Wesleyan and a Baptist and a Churchman, all giving evidence of what he had learnt, of his observances, and of his hopes to be saved. But this was not enough; what was wanted was that each had the testimony of Jesus and felt that he was saved, and could bear witness to this fact. He repudiated the idea that we could not know if we were saved; we must know it. All we wanted was to receive Jesus in faith. He was himself saved on the 28th August 1841. A collier and his son had received Jesus; they declared their experiences, and how they secured acquittal from sin and justification by simply receiving Jesus. So did he, and he felt that he was saved, that the works of the flesh were put away, and the fruit of the spirit was put on. Gal. V, v. 17-23. He could thenceforward bear witness. It

was the duty of all to bear witness, and to do so they must themselves have the testimony of Jesus, and this they could secure by simply receiving Jesus on his own terms in faith.

'There was nothing egotistical in all this. Mr. Taylor was quaint, not suited to a learned congregation, but has seemingly the power to move simple believers. The theatrical tone of some portions of his discourse jarred on one's ears, but we could not find fault with it as it was evidently the means to an end, to gain and retain the attention of men. Would that I could so receive Jesus in faith. I feel the necessity of change. I feel the perils which surround me, but it is literally the flesh lusting against the spirit and the spirit against the flesh, and these are contrary the one to the other, so that I cannot do the things that I would.'

In the Legislative Council the year 1869 was marked by two of the Queen's Advocate's not least important achievements in legislation, and it is surprising that no reference to either of the measures is made in the diary of that year. The two chief Ordinances of the year,—the Amendment of the Kandyan Marriage Ordinance and the Improvement of Tenures, were entrusted to him. In introducing them, and on subsequent occasions when they were before the House, he made most important speeches.

The amendment of the Kandyan Marriage Ordinances was shown to be necessary by reports from the agents, assistant agents, and district judges in the Kandyan Provinces, which reports were presented to Council. They disclosed a state of things which called for the early intervention of the Legislature. A despatch to the Secretary of State upon the polygamy and polyandry of the Kandyans had been sent by Sir Henry Ward in 1858. Sir Hercules Robinson found that, in writing on this subject in 1859, Lord Lytton, then Sir E. B. Lytton, addressed to the late Sir Henry Ward the following

remark :—'That the Kandyans should themselves have become weary of their existing license, and should have solicited from Her Majesty's Government the suppression of customs with which it is usually so difficult and unpopular to interfere, is a circumstance so unexpectedly gratifying, that I can only hope that you have not overestimated the force of public opinion among them, which has invited this interference.'[1]

Experience had shewn that there was at that time not only no wide-spread desire among the Kandyans for the change, but that in many out-lying districts at some little distance from the central capital, the people had never even heard of the proposal until after the passing of the Ordinance No. 13 of 1859. That measure also was in two respects essentially faulty in its conception. If it had merely provided for a system of voluntary registration for the future, no harm would have been done; but it went further, and attempted to regulate the status of all existing unions contracted according to the laws, institutions, and customs in force amongst the Kandyans, and provided, as regarded future registered marriages, that they could only be dissolved by the tedious and expensive process of a suit for divorce in the district courts, upon grounds somewhat similar to those prescribed by the English law. For such a change (said Sir Hercules Robinson in his opening address to Council in 1869) the population were wholly unprepared: and the result was stated to be that, in the great majority of cases, the law had been systematically disregarded; whilst in the districts where, through official pressure, most marriages had been registered, most evil had been done. It was

(1) It is said that a little deception was practised on the occasion referred to. A number of very aged Kandyan chiefs, to whom in the course of nature marriage must be of very little concern, waited upon Sir Henry Ward and asked that all marriages in the Kandyan kingdom might be restricted and registered. This was gravely cited as an expression of opinion in favour of an Ordinance. No wonder the late Lord Lytton was amazed and sceptical.

not, however, proposed to repeal the existing law, but merely to amend it by providing relief for those who, under the mistaken supposition that they were complying with its provisions, had committed bigamy, and by affording greater facilities for the dissolution of registered marriages in cases in which the parties to them were unable, from incompatibility of temper or any other cause, to live happily together. It was not forgotten that it was hopeless to attempt to force European usages and opinions in regard to such domestic concernments upon an eastern people until they were themselves prepared for the adoption of western views of morality by an actual change of habits. Meanwhile it was thought to be a great step in advance, and quite as far as the Kandyans were at present prepared to go, if, having extinguished polygamy, the Government could only secure such a formal record of the formation and dissolution of matrimonial connections as would do away with a fruitful source of uncertainty and litigation as to the rights of inheritance arising from the difficulty of tracing and proving in the courts after a lapse of years, by oral evidence alone, the complications of Kandyan alliances.[1]

The Queen's Advocate's speech in introducing this measure was a most interesting one. He described the difficulty as being not to ascertain how many wives a man had, but how many husbands a woman had. One provision of the Ordinance arranged for the legitimatising of children born before the registration of the marriages of the parties. The people would not register their marriages until they had cohabited or had a kind of trial marriage for seeing how husband and wife suited each other. Some of the principal passages in the speech deserve quotation.

Alluding to the existing state of things he said:—

(1) Speech by Sir Hercules Robinson, in opening the Legislative Council in 1869.

The Council was aware that before 1859 there was no written law upon the subject of marriages in the Kandyan provinces, such marriages being regulated by the customs of the country. Marriages were contracted and divorces took place without any formal registration, the simple taking and receiving a wife was sufficient, and that parties of the same class were living together was always looked upon as evidence of marriage. The courts of law had in cases respecting inheritance and consequently legitimacy to enquire into all these unpleasant details and these difficulties were rendered greater owing to the prevalence amongst the Kandyans of the questionable habit of polyandry. The great difficulty was not simply ascertaining how many wives a man had, but how many husbands a woman had. Such a state of things could not be regarded very favourably but with the capitulation convention in their face it was a very delicate matter for the Government to interfere. In 1858, however, a representation was made to Sir Henry Ward by many of the influential Kandyans and also by the principal officials that a change was desired even by the people themselves, and with the tact of a statesman and the heart of a philanthropist Sir Henry seized the opportunity of making an alteration. They had at the present sitting to consider the necessity of amending the bill introduced by him, and they were forced to admit that there were shortcomings and defects in that measure. With all those shortcomings and defects, however, one great thing was gained, when the custom of polyandry was no longer permitted and the custom of registration established. The preamble alone was a great good gained, setting forth as it did the duty of Government to interfere with the customs of the people when it appeared to be for their benefit. The preamble set out: Whereas it was agreed and established by a Convention signed at Kandy, on the second day of March, in the year of Christ 1815, that the dominion of the Kandyan provinces was vested in the Sovereign of the British Empire, saving to all classes of people in those provinces, the safety of their persons and property, with their civil rights and immunities according to the laws, institutions, and customs established and in force amongst them. And saving always also to the Sovereign of the British Empire the inherent right of Government to redress grievances, and reform abuses in all instances whatever, particular or general, where such interposition shall become necessary. And whereas, accordingly, the rights and liabilities of the Kandyans, (as far as they have not been affected by local Ordinances), have always been adjudicated upon by the courts of law in this island, in accordance with the laws, institutions, and customs, established amongst the Kandyans; and whereas the right reserved as above mentioned to the Sovereign has, from time to time, been exercised by the Sovereign, through the Governors and Councils of this island, as the circumstances of the people have become changed by the influence of a just Government, the spread of education, and the extension of commerce.

Thus the right was established to interfere with those customs, but the putting an end to the custom of polyandry was also a matter which reflected great credit upon the Government which introduced the bill. It now appeared from the reports laid before the Council that polyandry was disappearing. The present Government agent of the central province said that polyandry still lingers as a moribund practice, about which the people are indifferent;

but there is a marked disinclination amongst them to register marriages previously to cohabitation.

On the need of improvement, the Queen's Advocate said :—

Parties whose marriages were declared valid, though these marriages were contracted before the law came into force, were invited to register them, and one gentleman, Mr. O'Grady, stated in his report that he had called upon married candidates for native offices to produce proofs of the registration of their marriages. The consequence was, as the Governor pointed out, that where there had been the greatest official pressure the greatest harm had been done. The men wanted to register their marriages, not with the women whom they had been living with, but with others, and the result was that the issue of a great many marriages so made were illegitimate. The number of cases of persons whose unions were declared valid still remaining united to each other, and the number of cases in which the marriages were registered under the Ordinance and in which the parties still remained bound to each other were small compared with the large number who had totally disregarded the law. There were the cases of parties who had been contracted to each other since 1859 according to the Kandyan customs, but had not registered their marriages—cases in which the parties had not been legally married, their issue being consequently illegitimate. There were too the cases of those whose marriages were registered but who left each other and were living with other people—cases of simple concubinage. The consequence of these defects in the law was that careful returns had been collected and reports made by the different Government agents. From these returns it was calculated that at least two-thirds of the marriages were illegal and four-fifths of the rising generation illegitimate. Mr. Berwick in his report stated : 'I am constrained therefore to concur with those who have arrived at the conclusion, that the effect of the new law, in its present working, will be to bastardize and disinherit multitudes of the generation now being born, who would otherwise have had under the old law, the status of legitimacy. The more marriages that are registered the greater is the increment of the evil. This is a most serious matter. We are unsettling the rights of property for the next two generations, and we must foresee an immense flood of litigation and discontent, and of grievous moral hardship in the future.' Mr. F. R. Saunders in his report said that when the Ordinance became law, hundreds of thousands of persons were legally bound to each other. At least three-fourths of that vast number have since separated and are now living with other partners, whilst not twenty couples throughout all the Kandyan districts have affirmed their mutual consent before a district court. This is simply from ignorance of the forms to be observed, and an indolent carelessness of consequences. The consent in ninety-nine cases out of every hundred is mutual ; in most cases both parties have new partners, and in many cases, where a partial knowledge of the law has been attained to, they register the after marriages to (as they think) more completely dissolve the first, thus committing bigamy under this Ordinance.' The Governor in a minute, drawn up by him after considering the reports, stated :—

'It is probably within the mark to assume that two-thirds of the existing

unions are illegal, and that four-fifths of the rising generation born within the last eight or nine years are illegitimate.

'It is difficult as yet to realize the effects of such legislation. The oldest child born since the bringing into operation of Ordinance 13 of 1859 cannot now be more than nine years of age: but fifteen or twenty years hence or even sooner, if matters be left as they are, a state of antagonism must arise between the natural and legal claimants to property, which it is impossible to contemplate without dismay.'

This was a state of things to be contemplated with dismay, to use the words of the Governor, and its difficulty had yet to be fully realised. These were the reasons that rendered a change in the law undoubtedly necessary, and the first question which suggested itself to Government was whether there was a necessity for the repeal of the law altogether. It was clear there was not. There could be no doubt that much good, with all these defects, had been done by the Ordinance. He found that Mr. Braybrooke had stated: 'Whatever may be the views and opinions of individual members of the public service as to the wisdom or prudence of enacting the Kandyan Marriage law, I think that there are few who will not agree with the Queen's Advocate in thinking, that "a retrograde move is simply out of the question now." For my own part, I have no hesitation in saying, so far as the central province is concerned, that I have no reason to feel dissatisfied with the manner in which the Ordinance has worked; but, on the contrary, I am of opinion that the results already achieved are very encouraging as to the more marked success of the measure in the future.'

Of the present bill it was stated:—

'As respected the provisions for future divorce he had already stated to the Council that under the Ordinance of 1859, marriages registered under that Ordinance were compelled to be dissolved in the same way as marriages contracted by the Kandyans, viz., on proof of adultery on the part of the woman or adultery with gross cruelty or incest on the part of the husband. This was quite contrary to the custom of the country and had been entirely disregarded. The man was accustomed to send his wife away if she did not suit him and the wife to dismiss her husband and take unto herself another man as she pleased. Matrimonial inconstancy, there was but too good ground to believe, formed, as the Government agent of the central province stated, a marked feature of the Kandyan idiosyncracy, and if adultery were known to be a good ground for divorce it would be an inducement to commit crime and not by any means the punishment which the Ordinance intended. It was clear, therefore, that this clause must be amended. It had been strongly suggested to Government that all that was wanted was to make mutual consent a good ground for divorce. Mr. Sharpe, who had given a great deal of attention to the subject, wrote:—'The prominence given to the subject of registration has, I think, decidedly impressed the minds of the people with the importance and advantage of placing domestic events on record, and of thus putting them beyond dispute. I further think, that the people are beginning to understand better, and to be less suspicious of, the action of Government in matters of the kind, and to feel that there must be a good reason for what Government orders. This dose

not, however, imply any change in the habits of the people, and indeed we can scarcely hope for such a change for many years to come. The introduction of a purer morality must be the work of time, and I would venture to submit that we ought not to force on too quickly such a change; and I would reiterate the conviction expressed in my report for last year, that it is unwise and impolitic to render, as the Kandyan Marriage Ordinance has done, the marriage tie indissoluble, unless in the case of infidelity or desertion. Mutual consent, ought to be in all cases, as it was hitherto, and has been allowed still in the case of old existing marriages, sufficient to procure a divorce, and we shall have, I feel sure, to come to that when the prevalence of registration leads—as it must inevitably do—to numerous applications for relief from couples whom mutual estrangement renders unable to live together. Certainty and publicity are the sole requirements the law should exact in the case of marriage indissolubility, which is often a burden in Christian communities, becomes intolerable in an oriental and heathen society.'

The recommendations made by this gentleman and others were that they thought it would be sufficient to declare that mutual consent should be sufficient to constitute a good ground for divorce and not to require the parties to go before a district court and get judgment, a practice to which they were extremely averse and to which there was every reason to believe they would never conform. All that was required in their opinion was that registration should be made by the Government agents or their assistants in their capacity of provincial registrars. On this point he was merely speaking his individual sentiments, but he thought it would be better if they went a step further and allowed divorce to take place under the same conditions as the Kandyan customs. The beena married husband, comfortably settled in his wife's house would not agree to a divorce, nor would a deega married wife, who by leaving her father's house had forfeited her right to her paternal inheritance, consent to it. It was a matter he hoped the sub-committee would most carefully consider when the Ordinance came before them. The effect of these changes would be, as the Governor himself stated, to enforce the registration of all connexions and dissolutions.

The Ordinance of 1866 was a very useful one, having been introduced to provide that parties to a marriage should state to the registrar whether the marriage was intended to be a beena or deega marriage. There was every reason to believe that the statement made in the presence of both parties before the Registrar would be a correct one. In the absence of any proof to the contrary it was assumed by the English law that a marriage was a deega one until the contrary be proved because the woman forfeited her rights previous to marriage, but a beena marriage was the exception rather than the rule in this country. As it became clear from the reports received in 1866 and 1867 that the Marriage Ordinance had to be amended, he advised that the Ordinance of 1866 should not be proclaimed. Its provisions were now embodied in the bill before the Council.

The Ordinance was not popular with the unofficial members. Mr. David Wilson, in a manner characteristic

of himself, described the measure with some pithiness and inelegance. He was truly glad, he said, to notice that the sub-committee had rejected the 'monstrous recommendations emanating from the judges of the island, which would have admitted of a wily old Kandian debauchee, swearing eternal love through his beetled lips overnight, to a sweet innocent and confiding girl of sixteen (a *rara aves* perhaps) and kicking her out at daylight, before she had even time to get her early coffee and hoppers, and this forsooth under the sanction of what was proposed to be an amended Marriage Ordinance of 1869.' He proceeded, 'Such a title I consider would have been a desecration of the name of marriage, and it would have been better entitled "An Ordinance for the Propagation of Promiscuous Intercourse in Foreign Parts." We have no right, I consider, to legalize anything that we feel or know to be wrong, merely because it may appear to be expedient to do so at the moment. It is anything but creditable to the Government to be obliged to admit that the Marriage Ordinance of 1859 has only been partially promulgated and explained to the people, and it surprises me to see that the Judges of the Supreme Court recommend that the people in some remote places should still be left in their darkness and allowed to do as they please, because it might be troublesome to the Government agent or his assistant to visit them. Truly this is a nice state of things to be seriously proposed by the combined heads of the Supreme Court. I can only imagine one case which would excuse a stout Government agent from making known an important law in his district, and that would be an inability to follow a Veddah into his tree residence for that purpose.'

Mr. Coomara Swamy was indignant that an amended Ordinance was necessary. Before concluding a long speech he felt it his duty to state that the Ordinance of 1859 should serve as a warning against hasty and ill-

considered legislation. The old Ordinance, he said, was enacted in the belief that the people were prepared for such a measure and that they fully understood and appreciated its provisions. Experience had proved that such was not the case. They should take note of this and should be more cautious and less hurried than unfortunately was the tendency now in enacting our Ordinances. He also availed himself of that opportunity of dispelling a sophism propounded somewhere that the unofficial members of this Council were irresponsible members whilst the officials were the really responsible members of the Council. This Ordinance of 1859 was introduced by the so-called responsible members. Death, promotion, and the pension-list have removed nearly all of them from Ceylon. Where was the responsibility attached to official members, when, if soon after enacting ill-considered Ordinances they were removed from the only sphere in which they could be made responsible for their shortcomings? Which of the responsible officials who assisted in the enactment of the Ordinance of 1859 was there that day, to answer his question, 'Why was such an Ordinance passed?'

To this the Queen's Advocate replied that he was not aware to what measure in particular the honourable member was referring. The Government brought forward no measure without due deliberation, and they were quite willing to accept the responsibility of every measure which they did bring forward. As respects this Ordinance in particular, in addition to the information obtained as to its working from the administration reports since 1862, a circular was issued to all public servants in 1867 and 1868, calling for information, and when all the information in the possession of the Government had been laid before the Council, it disclosed a state of things which loudly called for remedy. With minor differences the authorities consulted were almost unanimous in suggest-

ing the remedy, and he (the Queen's Advocate) could not see what earthly object was to be gained in delaying a measure which must be brought on sooner or later. The Government were anxious in this and every other enactment which was brought forward to make it as perfect as possible, but he (the Queen's Advocate) was quite aware that in spite of this anxiety, it was simply utopian to expect that measures brought forward from time to time would be made abstractedly so perfect as to prevent altogether the necessity of amendment. He had lately to give an opinion on the Divorce Act passed in England in 1858, and he found that (except in two or three years) Acts amending it had continually been passed. If such amendments were necessary in England where the measures were prepared by able men and to meet felt and well understood wants, it was not possible to avoid a like state of things here when we were legislating for a people whose views and opinions it was often impossible to ascertain. He did not mean to follow the other honourable member (Mr. Wilson) in the facetious remarks he made touching the Ordinance. The Queen's Advocate was gratified to find that with all that honourable member's aversion to the measure from the commencement, with all the horror with which he still regarded it, he yet thought the present amending bill necessary and did not mean to oppose it. In justice, however, to the Judges of the Supreme Court, who had favoured the Government with their views on the measure, he wished to observe that the poetic descriptions which the honourable member drew of Kandyan couples and of the young damsel turned away by her hoary-headed husband without even her 'early coffee' was not quite founded on reality. The Kandyan law, vague as it was, provided for compensation to be made to the woman. The compensation was small, sometimes only the cloth she wore and a brass pot. But still there was compensa-

tion, and the adoption of the recommendation would not have been fraught with disaster in that respect. According to Kandyan customs marriages were dissoluble at the will of either party. A woman therefore who was sent away by her husband had no reason to complain. The case of collateral heirs was less entitled to consideration than that of wives, and the same ignorance would prevent their claiming the property. Where, however, any person had actually come into possession of property owing to non-registration or invalid registration, his case was saved and it was the only case calling legitimately for relief. This difficulty being disposed of there was no other. The existence of the difficulty was so obvious from the outset and so repeatedly referred to that honourable members should have addressed themselves to it and should have come prepared with their votes. It was unreasonable to call upon the Council to throw out the bill because the honourable member (Mr. Coomara Swamy) was not satisfied in his own mind as to this difficulty. But what course did the honourable member himself ask the Council to pursue? Don't change the law at present, he said. Only make non-registration penal and legitimatise past issue and require your officers to promulgate the Ordinance widely; then some time after they would see their way better, and could bring forward a carefully-prepared Ordinance. So that this legitimatising past issue would not, even in his estimation, be avoided, and that was exactly what the clause of the Ordinance which was objected to suggested. All who had studied the subject carefully were satisfied that an amendment of the Ordinance of 1859 was necessary, indeed indispensable. The difficulty which had suggested itself to the honourable member for the first time was a difficulty which had all along been foreseen, and it was a difficulty which, deal with the Ordinance to-day or ten years hence, must be faced and overcome. He (the Queen's

Advocate) thought the course suggested by the sub-committee was the wisest under the circumstances. It was open to the Council to confirm this view or to reject the proposed clause and to adhere to the draft. Whatever course they took he trusted they would go on with the bill and not put it off as suggested by honourable members.

Eventually, the bill was proceeded with, but not until a good deal of further adverse criticism was expressed by Mr. Harrison (who had termed the measure 'crude'[1]) and Mr. Coomara Swamy.

The other measure, technically known as the Service Tenures Ordinance, introduced and triumphantly carried through Council though subjected to most trenchant criticism and a good deal of what would now be termed 'obstruction,' related to the system of compulsory labour, under which lands were held in the temple and Nindagama villages throughout the Kandyan provinces. From Sir Hercules Robinson's description of the measure it seemed that the order in Council of 1832, while abolishing Rajakariya, or forced service to the State, left uninterfered with 'the service which the tenants of any land in any temple villages in the Kandyan provinces might be bound to render to any temple so long as they continued tenants of such lands, as well as the services which the tenants of land in any other villages in the Kandyan provinces might be bound to render to the proprietors of such villages, so long as they continued tenants of such lands.' An attempt was made to deal with the majority of these cases by the Ordinance No. 2 of 1846, 'To provide for the management of Buddhist Wihárés and Déwálas in the Kandyan provinces,' but the measure

(1) Mr. Harrison's justification for the use of the expression 'crude' is amusing. He said he had not meant in terming the Ordinance 'crude' to reflect in the slightest way on the chairman or members of the sub-committee, as they had given their best attention to the Ordinance, but the subject was 'crude' as it was such a large one that they had not time to duly consider it. A large joint would be 'crude' after cooking it for an hour, while a mutton chop would be done in half an hour.

was disallowed from England, for reasons unconnected with the question of service tenures, and the system had continued in full force and operation to 1869. The services to be performed in respect of such tenures were varied in character and differed in every village. They appeared in the Nindagamas to include every description of labour which one man could perform for another as a cultivator, artisan, or menial, whilst in the temple villages, in addition to the performance of the usual agricultural and menial tasks, there were allotted to the Nilakárayás, irrespective of their superstitious feelings, the temple services, consisting of repairing the temples and idols, furnishing the daily guards, carrying the images at festivals, and providing musicians and devil-dancers.

The whole system, in short, was described by those who had carefully watched its effects, as degrading to humanity. Under it, said one officer of government 'men are bought and sold with the land, industrial enterprise is blighted, agricultural improvement is barred, litigation is encouraged, oppression is legalized, and in the case of temple tenants, the freedom of conscience is interfered with.' One of the district judges went so far as to state in his report for 1869, that the system gave such an undue influence to certain classes over others of the people, that it extended even to the giving of testimony in the courts and the administration of justice. Sir Hercules Robinson added, 'It is, I think, a sad blot upon our administration, that after half a century of British rule, large masses of Her Majesty's subjects in the Kandyan provinces should still be held in a condition of predial serfdom, which retards the development of wealth and progress, and which, as regards the serfs themselves, carries with it a deprivation of civil rights as well as the forfeiture of religious liberty. The question is doubtless a very difficult one to deal with, as existing interests must be scrupulously respected.'

The measure which was introduced by the Queen's Advocate for defining and regulating all service tenures, was found to be perfectly consistent with the rights of property, on the one hand, and with the fullest religious toleration and the freedom of individual action, on the other. In the course of his speech when moving the first reading of the Ordinance, Mr. Morgan said (after citing many authorities and giving an interesting historical description), 'The abstract objections to the exaction of service remain in their full hideousness at present. It might have been necessary to exact services in the state of society in the days of the old kings of Kandy when the tenants were liable to be called out for the king's service, and in times of war had to defend the country. An excuse might also be found for it in a more advanced period when labour was scarce and without the services of serfs the proprietor could not cultivate his fields, when the serfs were necessary to swell the pomp and circumstances of the chiefs, and when the serfs themselves were dependent on the chiefs for protection. But this state of things has passed away. Labour is plentiful, and so long as the chief could calculate upon a certain rent, he could always get his fields cultivated. The position of the chiefs is now more useful than ornamental. We want now to raise the serfs to a sense of their individual responsibilities, to wean them from their dependence on the chiefs, and to inculcate in them habits of self-dependence and industry. By doing so we shall best qualify them for social, moral and political advancement. The continuance of service tenures is quite incompatible with the attainment of such objects, for the tenant is liable to be called away from his land when his presence is most wanted and to be kept away for months. The right to exact services is ordinarily restricted to thirty days in a year, but in practice the period is very much extended. I have

been assured by Mr. Advocate Ferdinands, a gentleman of great experience who has practised long at Badulla and Kandy, that he knew of a case where it extended even to six months. Liable to be ejected for non-performance of services, the holder could not look upon the land as his own and hence had no motive to cultivate and improve his land.'

This bill, like the other great measure of the session, caused much discussion, Mr. Coomara Swamy opposing it clause by clause. On the second reading the honorable gentleman raised an interesting debate, in which the Government were charged with making this Ordinance a pretext for overthrowing the Buddhist religion. The Queen's Advocate replied in a forcible speech. He could not allow the observations of the honourable and learned member to remain unanswered. He was disappointed that the honourable gentleman did not illustrate how and in what manner the Ordinance would sap the foundations of the Buddhist religion. A similar statement was made in a petition presented by the priests and chiefs but without authority. A mere vague statement that the Ordinance would have that effect only reminded one of the old cry which was raised in England whenever a grievance had to be redressed or an abuse to be put an end to, viz., that the British constitution was in danger. He (the Queen's Advocate) had had conferences with several priests and chiefs, and no one could show him how their religion could be affected by the Ordinance. All that they advanced was that it would be difficult to secure persons to perform the office of kapurales to the dewales, but kapurales had large lands assigned to them and the commutation of their services would, therefore, be necessarily high. But, even assuming that the apprehension was well founded, it only furnished an additional argument in favour of the Ordinance, for, if the nature of services was such that they could not be bought for money, what

right had we to compel people to render them? Mr. Morgan continued:—

The honourable member had viewed the Ordinance as regards its effects on the Buddhist religion and the Kandyan aristocracy, but there was another and a more important consideration which should engage the paramount attention of the Council, and that was the effect which the Ordinance would have upon the Kandyan people. He (the Queen's Advocate) did not believe that the Ordinance would affect the religion, or that it would lessen the influence of the Kandyan chiefs. A certain money payment instead of services, now too frequently evaded or rendered grudgingly, can just as effectually be made to contribute to the legitimate influence of the chiefs. But even if it be true that the Ordinance may affect prejudicially the interests of the Buddhist religion and the chiefs, perish those interests when they were opposed to the well-being and advancement of the population generally. The honourable member had not attempted to gainsay the demoralizing effects which the present state of serfdom was calculated to produce on the mind and habits as well of the landlord as of the tenant. He (the Queen's Advocate) had, in his opening speech, described them fully. It was not necessary therefore that he should do so again. Suffice it to point to the uncertainty in the tenure of lands which was the distinguishing characteristic of the present system. A tenant had no interest now to cultivate his land, for he was apt to be called away at the very time when his services were most wanted in his own field. Such too was the uncertainty of the services to be rendered, their nature, extent and duration; arising from the want of a registry duly defining them and from the ease with which an unjust or rapacious landlord could produce oral testimony to exaggerate them, that there was imminent danger of judgment going against him should he venture to contest the landlord's claim and of his land, which his ancestors had possessed and improved, being taken from him. It was no answer to say that the abuses were not so great as had been represented. If the state of things was such as was likely to give rise to abuses a case would be made out for the interference of the Legislature. He was possibly comparing very small things with very great things when he referred to the great Irish Land Question which now engaged the attention of statesmen in the mother-country, but there were points of resemblance, and he was forcibly struck with them whilst reading the excellent series of letters of the special *Times'* correspondent on the subject. He would quote an extract:—'When moral divisions, broad and deep, keep the owners and occupiers of the soil apart, * * * when the delicate but all-powerful chord of sympathy is wanting to knit a community together; when it is in the power of the dominant class to appropriate the fruits of the industry of others and to enforce a law of "SIC VOS NON VOBIS;" when examples of this wrong may be cited; when those with whom more than any others the prosperity of a district rests are legally in a state of mere dependence, and hold the land by a precarious tenure; and when it is possible to confiscate rights gained morally by purchase, it is easy to see that the elements of content and of general welfare are extremely deficient. Nor is it necessary, to effect this result, that oppression or wrong should be generally exercised, the mere existence of this

state of society, the apprehensions it inevitably diffuses among those who may suffer from it, the certain check it imposes on industry, are quite sufficient to retard progress, and to create a sentiment of angry irritation.' The former state of things was bad enough but it had been rendered much worse by the admission of elements which formed no part of service tenure according to its original institution. If the tenants had to render service to the chiefs only, to whose fathers such services were at first due and whose names were household words in their families, the system would be less open to objection; but some of the chiefs had sold the lands to others—people of a different and lower caste—and the tenants were now forced to render services to these. The Queen's Advocate had lately to conduct a case in Kandy in which the right of one of the most ancient families to certain lands was questioned. It was a pleasing sight to see the servants who surrounded the representative of the great house when she came into court. He had since learnt that a court interpreter had purchased some of the Ninda rights which were once the great Pelume Talawe's. The honourable member had referred to a case where a proctor had purchased certain holdings from tenants and who was improperly questioning now the rights of the landlord. He was mistaken, however, if he thought that the Government were acting from any pressure from such quarters. He had himself only lately heard of such a case. The Government had other and higher authorities to refer to. There was first those of Mr. Anstruther and Mr. Wodehouse—men of the old service, than whom none before or after understood the country or its institutions better or upon whose sound and practical judgment greater reliance could be placed. The measure which passed the Council in 1846, and was approved by Earl Grey, was substantially the same as that now brought forward. The service was described in it as 'repugnant to the constitution of the colony and which tends to check its advancement and its improvement.' There was the continued testimony from other officials. Mr. Mitford's opinions and the remedy he suggested might be extreme, but his facts could not be questioned. Mr. Saunders confirmed what he stated. Mr. Braybrooke considered the representations on the subject somewhat exaggerated but he thought the proposal for a commutation a 'wise and politic one.' Since the first reading the Queen's Advocate had consulted a person most competent to form an opinion on the subject—a gentleman who had been formerly a Ratamahatmeya and afterwards joined the legal profession—Mr. Jayetilleke of Kumnegala. He considered the measure 'generally speaking a very necessary one at the present day.' This accumulation of testimony was surely more valuable than the opinion of chiefs and priests who fancied that the measure would affect their interests. The only regret he (the Queen's Advocate,) had was that the measure was not complete and did not embrace a scheme for the final redemption of services. The warm and earnest support which the Governor had given to the measure from the time it had engaged his attention promised for such a scheme, could it have been brought forward, every success. But after very mature consideration, the Government were forced to abandon the scheme for the present. Data which a registry of services, such as the Ordinance provided for could only supply, were wanted for such a scheme. He hoped that it would be brought for-

ward as soon as the contemplated registry was completed. Before passing to a consideration of the objections in detail which the honourable member had brought forward, the Queen's Advocate reminded the Council that if tenants were bound to render services to the chiefs, so the chiefs were bound to render services to the king. We gave up the latter in 1832, but allowed the chiefs to retain the former. This point seemed to have been quite lost sight of by the chiefs and priests who had petitioned against the measure and by the honourable member. He would now briefly advert to the objections in detail. First, he objected to the definition of Paraweni. It was taken from Sir Charles Marshall who not only spoke on his own authority but on that of Sir John D'Oyley and other lawyers.

Mr. COOMARA SWAMY: I did not question the definition. The chiefs and priests do.

The QUEEN'S ADVOCATE regretted that on such a question the honourable member did not represent his own views. The authority of the chiefs and priests could not be relied upon, particularly in face of their statement that a Sannas or Tudupota was indispensable to constitute a Paravani tenant. He had been thirty years in practice and had been concerned in numbers of service cases—he did not know of a single one in which a tenant held a Sannas or Tudupota. He would not say that the case was one altogether unknown, but it was one at least of very rare occurrence. The next objection of the honourable member was that tenants had the right to demand commutation whether the landlord consented to it or not. If the two consented we wanted no law, but inasmuch as we desired to move tenants to get rid of their serfdom it would have been fatal to such an object if this consent of the landlord was made necessary. He cannot complain for he is only entitled to the services and will get a fair annual money payment in lieu of these services. The provision that commutation once made should be final was also objected to, but in answer to this the Queen's Advocate could not do better than refer to Mr. Braybrooke's opinion:- 'The periodical revival of his question, as to the value of these services would be attended with great inconvenience, to say the least, and anything that might tend to unsettle the relations between landlord and tenant should be carefully avoided.' The Ordinance made no provision for a tenant giving up commutation after he had once elected it, but if both landlord and tenant agreed to such re-arrangement they wanted no law to carry it out. The question as to the tithe was a very difficult one; he believed that in nine cases out of ten the landlord would himself prefer to pay tithe than allow the tenant to do so. The honourable member had no objection to the tribunal created by the Ordinance for the settlement of their claims though he did, in passing, refer to the commissioners and the absence of appeal. This, the Queen's Advocate thought, was the great recommendation of the measure. Instead of having to go to law and fee Advocates and Proctors, the services would be defined now by experienced officers of Government without expense to the parties; and as the Government had no interest whatever in the lands and had only to arbitrate between the landlord and the tenant there was every guarantee that the interests of both would receive impartial consideration. These were all the details to which the honourable member objected. He hoped the Council would not be deterred by them from passing the bill.

Both measures were passed, and, in closing Council, Sir Hercules Robinson said:—'The Ordinances which have become law during the present session afford ample proof, if such were needed, of your desire to develop the productive resources of the country, and to ameliorate the social, moral, and material condition of the people. The amended "Kandyan Marriage Ordinance," and the "Service Tenures Ordinance," especially bear testimony to the conscientious anxiety of this Council to meet the wants, and watch over the interests, of the native population. I earnestly hope that the considerate allowance now made by the new marriage law for ancient national usages, will remove all reasonable objection on the part of the Kandyans to a simple and inexpensive system of registration; and that in time, education, and the other enlightening advantages which the complete opening up of the country will place within their reach, will produce that elevating and civilizing influence upon their feelings and habits which we have proved that legislation alone is powerless to accomplish.

'The "Service Tenures Ordinance" is but the crowning of the arch, which was left incomplete by the order in Council of 1832. The question has no doubt been surrounded with difficulties, which have delayed earlier legislation. But the adoption by you, without material alteration, and after mature consideration, of the Ordinance in the shape in which it was submitted to you, proves, I hope, that in your opinion I have redeemed the promise which I made on opening the session to submit to you a measure for defining and regulating service tenures which would be found to be perfectly consistent with the rights of property on the one hand, and with the fullest religious toleration and the freedom of individual action, on the other.'

CHAPTER II.

LAST DAYS AT THE BAR AND IN THE LEGISLATURE.

1870—1874.

In 1870, Ceylon adopted a decimal currency, though it was not until the 1st of January 1872 that an order of the Queen in Council was promulgated which rendered the change a legal one, and compulsory, so far at least as Government accounts were concerned. Serious difficulties had arisen from parties with whom engagements had been made for a certain number of rupees per annum who had claimed—and in some cases the claim was allowed in a Court of law—£1 sterling as the equivalent of ten rupees. It was proposed, as the sovereign had never been made a legal tender in Ceylon, that the rupee should be taken as a standard with multiples of 100 in the shape of (1), a 50 cent. piece; (2), a 25 cent.; (3), a 12½ cent.; (4), a 4 cent.; (5), a 1 cent. and (6), a ½-cent. pieces. Several merchants and some bankers opposed the change very strongly, and the Queen's Advocate, who took a good deal of interest in the reform, shared some of the severe criticism which was directed against the authors of the change, chiefly the Governor. Whilst, however, in some respects the change proposed caused estrangements, in others it was the means of reconciliation. The undoubted ability of Mr. Lorenz, through the medium of the Queen's Advocate, was made available to the Government. It was the expressed wish of Sir Hercules that Mr. Lorenz should accept a seat in the Legislative Council, but this he declined on conscientious

grounds; until the Council was reformed he could not take a seat in it. He, however, was very willing to render all the aid he could to the authorities, and in respect to the Currency Ordinance was of much service. In June 1871, writing to Mr. Morgan, Sir Hercules Robinson said:—

'I have read Mr. Lorenz's able and thoughtful "remarks" with much interest. I quite agree with him, and will adopt his view, which is unquestionably theoretically sound, if there should be no practical difficulty in carrying it out. The only possible difficulty which I can imagine may be in some of the Home or foreign postal rates. But on this point I will consult Mr. Gillman, who is well up in Post Office matters and a warm advocate for decimals. You know we only retain a penny on each single letter arriving in and leaving Ceylon, handing over the balance of the postage to the country entitled to receive it. But as we settle for these postages monthly in the aggregate, I presume it will be immaterial to any one but ourselves if, in the adjustment of our stamps, we receive from the Ceylon public more or less than we hand over.

'I should much like to print Mr. Lorenz's memorandum in the papers which are now preparing for publication. Would he have any objection to my doing so?

'I did intend, as you know, to proceed as follows: To bring the order in Council legalizing rupees into operation on 1st January next. From the same date to make the decimal coins, (specimens of which I enclose) a legal tender concurrently for a time with the copper duo-decimal coins now in circulation; to keep the public accounts from same date in rupees and cents; and then when we have got the decimal coins into general use, and have withdrawn the duo-decimal tokens from circulation,—a work probably of a year,—to alter the

Stamp and Toll Ordinances and declare by proclamation the decimal copper coins the only legal copper currency.

'But, since thinking over Mr. Lorenz's memorandum, I am not sure that we might not pass an Ordinance next session adjusting the stamp and toll rates from 1st January next. The whole question will then be disposed of, and there will remain nothing for my successor to do but to demonetize the British and Dutch local copper tokens now in circulation as soon as the greater part of them can be called in, and the new decimal coins substituted for them.

'The only point is, Can this be done without new stamps? We can, of course, ordain that we may use our old dies and stamps after the 1st January, increasing or reducing the price of them in cents as the case may be. But how about the stamps at that date in the hands of the public? No doubt we may authorise the holders of stamps about to be reduced in price to present them at the stamp office or kachcheries on or before 31st December, and hand back the same stamps to the owners after 1st January with the difference between the old and new values either in stamps or money. But the difficulty is what to do with the holders of stamps proposed to be increased in value? For sample, the penny postage and receipt and draft stamp is to stand after 1st January for five cents. A man, therefore, with ten rupees' worth of penny stamps, *i. e.*, 240, will find them converted into 240 5-cent. stamps = 12 Rupees. He could not be allowed to use them at this increased rate, and what is to be done in the case? Molesworth was only able, after a great deal of thought, to get over the difficulty by laying down *(para. 3, page 6, Sess. paper IV, 1869)* that all stamps, the value of which would be raised by the adjustment should cease to be current, and new stamps issued in their place.

'If new stamps are indispensable in these cases, they

could scarcely be procured in time for 1st January next, as engraving is a tedious process: but perhaps Mr. Lorenz can suggest some means of getting over the difficulty.

'There is another point upon which I want information. How can I ascertain the amount of new copper coin likely to be required to start the new system on the 1st January next?

'Perhaps Mr. Lorenz might like to have a set of the specimen coins. If so, please give him the enclosed and I will send you others.'

In another letter on the same subject, Sir Hercules says:—

'I forgot to mention one point in my letter of yesterday on Mr. Lorenz's memorandum. He observes:—"The adjustment may be effected (by repealing the existing schedules of the Stamps Ordinance and the Tolls Ordinance, and) by executing a general Ordinance, requiring, that wherever penalties or offences are expressed in pounds, a pound shall mean ten rupees; or if in shillings fifty cents; or if in pence, five cents to a penny." It appears to me that the 8th clause of the order in Council of June 1869, declaring that whenever British currency is specified in any Ordinance such sums shall be paid in rupees at the rate of 2*s*. to the rupee, meets all cases of penalties, except the case of any which may be expressed in pence, and which, it is proposed, should be paid at some greater or less rate than 1-24th of a rupee. If we propose to raise a penny from 1-24th to 1-20th of a rupee, legislation will, no doubt, be necessary, but are there any "penalties or offences" expressed in pence?'

Assistance in the change of currency was almost the last service Mr. Lorenz was able to render to his country; a few months after he died.

Early in 1870, His Royal Highness the Duke of Edinburgh visited Ceylon, and stayed for nearly two

months in the island. Partly owing to this circumstance, and also from other reasons, legislation was very dull and uninteresting during the session of 1870. Very few new measures were introduced, none of first importance, and though the proceedings in Council were regarded with a good deal of interest, it was mainly owing to the discussions which arose regarding large public works, *e.g.*, harbour formation and railway extension. The Queen's Advocate's duties, as a legislator, were comparatively light, but office work had increased with the growing prosperity of the island and was now very oppressive.

A passage from a letter to his second son, still in England, shows the opinion which Mr. Morgan took of the Franco-German war. From the outset his sympathies were with Prussia: he had never liked Napoleon III., and thought his conduct towards King William and Germany generally exceedingly bad. Writing on November 15th, the Queen's Advocate said to his son:—'We are all anxiously waiting to hear news from Paris. It is sad to contemplate that magnificent city in ruins, its mighty buildings brought low, its wondrous works of art destroyed. The war teaches us a terrible lesson. Both France and Germany had provoked God's vengeance. Virtue and morality were latterly the subjects of ridicule in Paris. German philosophers deliberately set to work to undermine the sacred truths of the Bible and to rob Christians of their faith and hope. They have their reward. It is difficult to foresee the future of Paris. Let us only hope that everything will be overruled for good.' Perhaps there was a little too much of the Tower-of-Siloam judgment in this passage, but from the puritanical belief which was the sheet-anchor of Mr. Morgan's faith and the guide of his conduct, the conclusions were right and proper. They certainly were conclusions to which a vast number of Christian people came at the time.

The succeeding passages from the Diary for 1871 need few connecting remarks:

'1*st January*, 1871.—The retrospect which this day naturally suggests affords matter for great thankfulness. I do not believe I had a single day's illness last year, and my wife and children have enjoyed comparative health also. I have had two more grandchildren during the year, both boys.

'Trutand died on the 10th August last, so that I alone am left with my aged mother of a once plentiful stock.

'My work, too, has progressed satisfactorily both in Court and Council.

'May God enable me to keep the following resolutions during the year into which I am now entering, and may the year prove a prosperous one to me and mine:

Res. 1. Religiously pay old debts and avoid incurring new ones.

„ 2. Religiously work off past arrears and avoid incurring fresh arrears.

„ 3. Religiously abstain from speaking ill of others; nor think ill of any if I can possibly think well of them.

'Poor Lorenz is lying dangerously ill. "Why do we ride at the pace that kills?"

'2*nd January*.—Attended Trinity and heard a very namby-pamby sermon from Mr. ——. His reading is execrable. The beautiful chapter in Ecclesiastes about the golden bowl and the pitcher, was read in a manner that showed that he was quite insensible to the poetry and pathos of the figures. His selection, too, of hymns was absurd. Fancy verses like these:—

If I ask him to receive me
Will he say me nay?
Not till earth and not till heaven
Pass away!

Finding, following, keeping, struggling,
Is he sure to bless?
Angels, martyrs, prophets, virgins,
Answer yes.

'Why virgins should be placed in the same category with prophets and martyrs is inexplicable to me.

'The usual demands for new year presents try one's temper badly. We had to give away nearly £10, which is a serious drain upon my monthly income. Lorenz somewhat worse to-day. Only a family dinner party, enlivened by Manual's band.'

'5*th January*.—Council to-day. Great railway fight in which Irving successfully defeated Harrison. C. asked piteously if no further evidence could be got—"Not a man from the P. W. Department who knew something about railways who could be examined?" Why does he not do justice to himself, and get over this painful wavering and vacillation? Surely there has been sufficient information before Council to enable members to form an opinion one way or the other.

'11*th January*.—We had a field day to-day in the Legislative Council. C. gave vent to his long-cherished malice against me, by taking advantage of the vote asked for to provide me with a statistical and an audit clerk, to attack my private practice. But, I think, I gave him a Roland for his Oliver.

'Harrison made a very offensive speech, and was thoroughly sat upon by Irving.

'These exhibitions however, with a speech from C. about disestablishing the church in Ceylon, *apropos* to nothing, and another on the headmen and minor courts questions, practically close the debates (?) of this session.

'12*th January*.—Saw the Governor to-day. He quite concurred with me that it would be most impolitic to deny to the Queen's Advocate the right to take private practice.

'20*th January*.—Conducted the criminal session on behalf of Cayley. The first was a burglary case of which I am not free from doubts, though the jury convicted

the prisoners. D. is getting careless in his defence and missed some very good points. The second is an infamous case—infamous I mean as to surrounding circumstances, for the charge itself, of aggravated assault, was simple and well proved. A man was charged by his wife with incest with his daughter and that, not in an unguarded moment when the brute might have predominated over the man, influenced possibly by drink, but continuously and openly for months. His defence was that the charge was got up by a suitor to his wife's hand who had seduced her, but to whose marriage he had refused his consent. So much doubt existed as to the charge that it was dropped. The girl was taken back by her father who assaulted her cruelly. She fled for protection to the house of her uncle (father of the seducer). The father went for her, was turned out of the premises by the uncle, turned round and stabbed him! I believe the charge of incest is too true.

'Attended a meeting at 5 o'clock at the Audit office to consider the best means of testifying our respect to the Bishop of Colombo (Dr. P. Claughton), who is going to leave us, having been appointed Archdeacon of London. Present: the Chief, the General, Douglas, Cayley, Adams Wall, Wise, and self. Agreed on an address and memorial. I undertook to second a resolution at a public meeting.

'31*st January*.—Meeting to agree to an address to the Bishop. The Chief Justice presided. He made quite an oration. I seconded a resolution for a subscription. On the whole Bishop Claughton did much for which we ought to be grateful, the Synod and thrusting Bennett upon Trinity, and his other bad appointments to Trinity, to the contrary notwithstanding.

'1*st February*.—B. wrote a very nasty letter about the Queen's Advocate supervising judicial work. He came to me and I said so, though I did not give him half

my mind. He is meddlesome and very unscrupulous in his statements.

'Conference with Irving, Vane and Douglas touching small-pox rules and headmen. Irving said that no appointment would be made as information had to be collected. The idea as to L. seems to have struck them at last, but as they did not assign this as the cause. I feigned obtuseness.

'*4th February.*—Wanted to go by 5 A.M. goods train to meet Chief Justice at breakfast. He went with Richard and his son by the two o'clock train yesterday to Veyangodde, but missed the train. Came back discomfited, and vented my wrath upon ——. This is not right, but I get more and more short-tempered every day.

'Hard at work in the office. Saw Lorenz in the evening. He is a good deal better.

'*5th February.*—Went to Trinity. L. is reproducing some of his examination papers. He discoursed on the truth of the Christian religion from (1), Prophecies; (2), Miracles; (3), Sublimity of its doctrines; (4), Purity of its morals.

'I mean to write a series of articles for the *Lakrivi Kirana*, [a native newspaper with a large circulation] likely to prove useful to the natives:

1. Vaccination;
2. Cattle disease;
3. Labour on coffee estates;
4. Irrigation, &c. &c. &c.

'I am getting irregular in keeping up my diary. Must make it a point to commence every day's work by writing my diary of the day before. [The resolution was not kept.]

'C. called in at seven and dined with us. He informed me that Bismarck's heavy demand on France had caused great depression in England.

'*7th February.*—A good deal of my time is unneces-

sarily wasted in the office by people coming and engaging in idle talk. To-day S. S. came to speak of a dinner he means to give to the Bishop and to arrange about the guests. He wants every thing O. K. Then there is A., who has very little to do in his own office, always going about to gossip with others.

'Was surprised to receive my overland letters, as I had not heard of the arrival of the mail. Letter from Owen; a line about himself, and two sides of a page about turning out the Liberals and getting the Conservatives in. He wishes Earl Derby to be Premier, Earl Carnavon, Colonial, and Marquis of Salisbury, Foreign, Secretary! The boy was a Radical and Dissenter in Ceylon, and is now Ultra Tory and High church. I suspect, however, much of what he says is gammon to annoy me, knowing as he does my Radical tendencies.

'Finished Lothair, the perusal of which interested me much.

'*8th February.*—Did very little in the official line to-day, my time having been principally taken up with two opinions for the Bank. I have lots of pressing work for the next Executive, on hand, which I completed to-day.

'Had a long talk with ——, who returned by the last mail. He met Pilkington in London, who is as mad as ever. He was going to lecture at Hanover Square Rooms and —— saw a man go about with placards. "The lecture by a Ceylon lunatic, Wild Man of the Woods," &c., &c. I dare say he will try to create an impression for a while, and when that subsides, he will himself collapse.

'A. told us a good story of a clergyman who, churching a lady of rank and not wishing to speak of her as a woman, said, "Help this lady thy servant who trusteth in thee." The clerk, equal to the occasion, responded, "Because her ladyship trusteth in thee."

'*9th February.*—Engaged in some opinions for the

Bank and in preparing report on ——'s defence from charge of neglect as respects certain judicial work. The close study of his defence confirms the impression which I have lately formed of him that he is as unscrupulous as he is conceited. The overweening vanity of the account of his doings in the interior and their supposed results is only surpassed by the very untruthful description of the way in which other courts, particularly Colombo, performed their work.

'(Friday). Saw D., who complains of the Governor passing off as the views of the Executive Council his own peculiar views as to the value of service under the Tenure Ordinance. I am much to blame for want of firmness in not maintaining my own views, and I feel I am weakening the confidence of my colleagues in my opinion by this line of conduct. But the Governor is so bent in carrying out his own views and so clever in advocating them, that I feel completely silenced for the moment by what he says.

'18*th February*.—S.'s dinner went off very well, but was very heavy. The entrees seemed as if they would never cease. The champagne was excellent.

'Had a long talk with the Bishop, who thanked me very warmly for what I had said of him at the public meeting, and expressed himself very kindly of me particularly in spite of the part I took in opposing his Synod scheme. He says that his Colonial experience will assist him greatly in the East of London.

'19*th February*.—Heard Bishop Claughton's farewell sermon from Acts chap. xvi, v. 10, "Assuredly gathering that the Lord had called us to preach the Gospel to his people." It was an excellent discourse and feelingly delivered.

'21*st February*.—Fifty years old this day! Half a century have I lived, a recipient largely of God's mercies but yet a monument of ingratitude! From my childhood

I have been a special object of God's loving kindness. Preferred far above the rest of my family, and of my class. I have had abundant source of social happiness; professional and official distinction and preference far above my humble merit. My field for usefulness was therefore great, my influence almost unbounded, and yet, viewing the past from the stand-point which an occasion like this affords, I must, with shame and humiliation, confess that I have literally been "cumbering the ground," and more, for cumbering only suggests a negation of good, whereas a positive active career of ingratitude and folly has been mine. Truly the Lord has not dealt with me after my sins nor rewarded me according to my iniquities. I have His promise that if even now I return to Him and put my trust in Him, He is ready to save me yet. And, great as my worldly troubles are and fraught with anxiety, I have still His promise that if I would but return, He is ready to make me His. "When thou passest through the waters, I will be with thee, and through the rivers, they shall not overflow thee: when thou walkest through the fire, thou shalt not be burned; neither shall the flame kindle upon thee. For I am thy Lord God, the Holy One of Israel, thy Saviour." Isaiah xliii—2, 3.

'12*th March*—Went out to Cotta with C. and visited the Christian Institution. The place was sadly different from what I knew it of old. The gate was inhospitably closed, and the buildings seemed deserted. A few boys at the large lecture hall of old, and a few girls in a separate building assembling for Sunday school, were all to remind one of the uses to which the place was set apart. There is but one resident English missionary, and we did not see him. Felt heart-sick at the sight, though otherwise grateful, and glad to re-visit, with my grandson, scenes where a good portion of my childhood was spent thirty-seven years ago. The district is consid-

erably changed, and a town is rapidly being formed where the village stood. Saw Lorenz on our return: he is progressing.

'*9th April.*—Left for Lindula Patna early to hear Dunlop. Drove up to the end of the road near J. Martin's and then went on in a chair. After crossing Kotmale Oya under Logie, I got on Smith's horse. Was very nervous at first, but proceeded all right, and headed the cavalcade to Thomas's bungalow, where we found Dunlop, and a large party assembled to meet him. Elphinstone came with us from Logie, and a fine fellow he seems to be. Dunlop preached on the mission of a risen Saviour. The service was held in Thomas's drawing-room, and was most impressive. It was a fine sight to see the stalwart men assembled from miles around to join in divine worship. There was a harmonium to aid the singing, which was very fine. There was one want—there were no ladies. The climate is fine and will suit Europeans. It would be a happy thing if each bungalow had a lady to adorn it, and planters would adopt the place as their home, and have each his family smiling around him.[1]

'Dunlop left after breakfast for Nuwera Eliya, which is only some eleven miles distant from this.'[2]

In August 1871, Mr. Lorenz died, and his friend Richard Morgan sorrowed deeply for the loss he had sustained personally, and for the extent to which the Eurasian community had suffered by this untimely decease. Elsewhere, a brief sketch of Mr. Lorenz's career is given, but in this place some passages

(1) What Mr. Morgan desiderated has come to pass. A very large number of English ladies now reside in this large and beautifully-situated coffee district. (1878.)

(2) In connection with this description the reader's attention is directed to a contribution in this volume where, under the heading of "Reminiscences, Incidental and Personal," Mr. Morgan makes a pointed reference to this performance of Divine Service in a Coffee Planter's bungalow.

from a letter to Mr. Morgan by General Studholme Hodgson may be quoted. General Hodgson wrote :—

'UNITED SERVICE CLUB, PALL MALL, S.W.,
'*29th September* 1871.

'MY DEAR GOOD FRIEND,

'The sight of your handwriting occasioned me as usual much pleasure, but the contents of your letter were most distressing to me. So, poor dear Lorenz is no more! Who would have thought when you and I were at his hospitable abode, not so long since, and I proposed a toast on what I foolishly believed the twenty-fifth anniversary of his marriage, he would pass away long before that anniversary should really arrive. He, young, strong and joyous. I had a true regard for him. At an early period, I recognized his talents, and the excellent qualities of his heart, and it is a pleasing reflection to me that to the last I kept up my intimacy with him. He had a sincere regard for you, my dear Morgan. In one of my letters to him I expressed an earnest hope that he would never permit any foolish local politics, on what you might differ, to prevent there being between both of you a good and friendly feeling, as I considered such of great importance to a large class whose interests both of you were bound to watch over, and who had you two alone for good safe guides. Your heart would have been made happy could you have read his joyous, jolly reply! "I quarrel with dear Morgan. Never, never. Trust me there!"

'His loss is a serious one to your community. Another may replace him with the same excellent intentions, but where with these will be found the same great talent, the same independence, the same courage?

'He was a man with whom I should have cultivated intimacy had I been the permanent head of the Government, whatever our divergence on political affairs. Indeed, it is essential to proper Government that there should be opponents, otherwise it would become despotic. And the more talented and courageous the opponents the better, in my opinion, as the Executive is taught much what would not otherwise reach it.

'There is a large class in Ceylon, increasing rapidly in numbers and intelligence, who do not, I conceive, receive the support from the British community which they have a right to demand. To them Lorenz is indeed a fatal loss, for he was ever their sound, judicious, brave adviser.

'And how kind he was in private life, how charitable, how friendly, how disinterested.

'I had many opportunities of judging how truly he deserved these epithets. Of course, there will be a memorial raised to him, recording his worth, and I trust you will be careful that my name shall be inserted among the contributors. At a fitting time, pray convey to his widow the expression of my deepest sympathy.'

The session of 1871 promised to be as dull as was that of 1870, so far as new legislation was concerned. Sir Hercules Robinson was not a little distressed in consequence. This was to be his last session, his term

of office in Ceylon being about to expire and the Governorship of New South Wales taken up. To the Governor's great delight, early in July, he received from the District Judge of Colombo (Mr. T. Berwick) a printed copy of a letter addressed by that functionary to the Colonial Secretary on the 22nd of June, on the subject of Village Tribunals. The subject had occupied the attention of the Queen's Advocate, who had long been impressed with the fact that the existing minor courts did not suffice for the wants of the people. In his letter to Sir Hercules Robinson, Mr. Berwick hoped the matter might, as he said, be dealt with by 'a Governor who knows the condition of the country so thoroughly,' and that to the other great material and moral benefits by which the period of your Excellency's Government will be remembered, one more of great importance to the well-being of the people and of a nature which they will specially appreciate, may be particularly associated by them with your name in lasting and grateful remembrance, one which would be really a new (and most popular) *Charter* to the natives.' The subject had been talked about for some time. The Director of Public Instruction thought that compulsory education in every village might be rendered possible through the instrumentality of village councils. Mr. Edward Elliott urged that cattle trespass might be efficiently dealt with through the same means. Sir Hercules Robinson set his heart upon carrying a measure which would secure all this. He wrote to the Queen's Advocate:—'Will you try and see if we can move in the matter this session? I should greatly like to do so. It would be the measure of the session, which otherwise will be tame and bald, and be a fitting capital to a goodly column of native measures, such as education, irrigation and service tenures. Please oblige me by taking up the subject warmly, and see if anything can be done in the matter.'

Mr. Morgan did take up the subject warmly, and when introducing the measure made a most brilliant and effective speech.[1] The course of legislation which made this system of Home rule possible may be traced in some detail as exhibiting the real and thorough progress which the colony has made, in one direction at least, under British rule.

However it may be with respect to other countries where native races do not seem to have stamina enough successfully to engage in the struggle for existence with the new comers who are settlers (*e.g.*, Australia, New Zealand, and possibly Fiji), Ceylon is held by the British for the benefit of the natives of the land; these natives show no signs of decay, and legislation is generally undertaken as viewed from their stand-point. Consequently,

(1) The Queen's Advocate saw a few difficulties at the outset, as appear in the following letters addressed to the Governor :—

'COLOMBO, 20*th July* 1871.

'I received this morning your Excellency's favour of yesterday.

'I have not yet seen Mr. Sendall's and Mr. Elliott's recommendations, but have written to Mr. Swan for them. I will give them my best consideration when they arrive and will address your Excellency on the subject.

'No one can be more anxious than I am to make your Excellency's last session fruitful of good to the natives, and your Excellency may depend upon my taking up the subject of Village Tribunals warmly. I have long advocated the withdrawal of petty suits from the present tribunals by the creation of officers answering to the Indian tahsildars and village and district munsiffs supervised by competent District Magistrates. I have fears as to Mr. Berwick's gansabhawa, the election of a body of men to act as Judges for a year or more. It will, I fear, lead to all the evils of divided responsibility, and more, to gross corruption. This, however, is comparatively a matter of detail. I shall endeavour to mature my views and wait upon your Excellency with them. I trust the result will be a scheme which your Excellency may, with confidence, lay before the Legislature.'

'COLOMBO, 22*nd July* 1871.

'I beg to return Mr. Layard's paper on Gansabhawa. I have retained a copy with reference to the scheme under consideration. I have asked Mr. Sendall to cause search to be made for Mr. Gogerly's paper which must have reference to a scheme like that submitted by Mr. Sendall. Anything coming from Mr. Gogerly must be very valuable.

'I think an administrative Board to manage all village matters far preferrable to one for judicial purposes, but, perhaps the two may be so blended as to make judicial officers to be elected by the Council and to be approved of by the Agent.

'Your Excellency will perceive by the resolution of the Chamber of Commerce that they feel keenly the ridiculousness of the position in which they have placed themselves on the currency question.'

when in 1856, Sir Henry Ward determined to resuscitate the irrigation tanks in certain parts of the island wholly occupied by natives, he resuscitated also an old institution which had not long before existed amongst the people for the performance of communal works, namely, the village council. It was found, however, that the decisions of this body could not be enforced; legal power had been taken away from them by the creation of minor courts in 1843, so that if any party chose to dispute their authority, as in the case of the communities referred to by Sir Henry Maine in his Oxford lectures, there was no power at hand to enforce compliance with the decree that had been made. Whilst giving power to village communities, the Irrigation Ordinance of 1856 did not actually compel all the residents in a district to contribute so many days' labour per year to the needed work, but it enabled the community to revive the ancient customs touching irrigation, and whenever those customs required owners of adjoining fields to fence lands, to protect tracts of fields from cattle, &c., to regulate the supply and due distribution of water, all the members of the community were obliged to take part in the work. The experiment was watched with great interest, because, if the scheme were found practicable, and the members of the diverse races in Ceylon showed themselves capable of self-government, a way would be found out of the difficulty caused by daily increasing litigation, to which the people seemed wholly given up, and which was fast choking the minor courts with work that could not be overtaken. To what a stupendous extent this proneness had developed amongst a people who, prior to the British occupation of Ceylon, had few or no courts to go to, may be inferred from the statement of the Inspector-General of Police (Mr. G. W. R. Campbell), in his Police Administration report for 1869, where he points out that in the year under review,

nearly a thirteenth of the whole population was brought before the magistrates as accused persons; of these 168,000 persons only a tenth were convicted and 112,367 were dismissed without trial. The District Judge of Colombo in his letter to the Colonial Secretary on Gansabhawa, advocating the establishment of village councils as the proper forum for the settlement of trivial disputes, points out that the full significance of Mr. Campbell's statement is not apparent until it is considered that the enormous array of litigiousness the latter instances is independent of the numbers thronging the civil courts. He writes as follows:—

'At the rate of the averages of individuals found to be involved in each case, assuming them to apply throughout the island, as is more than probable, we have

	Cases.		Souls.
Trials	13,874	+ 12 =	1,66,488
Dismissals	54,573	+ 8·2 =	4,47,498
			6,13,986

'Add only a half of this number for the Courts of Requests, and the sum is nearly a million; a number which exceeds a third of the population, and which must be considerably exceeded (at the same rate) when the litigation of the superior courts is included. Then, as comparatively few cases came on for trial under several postponements and re-issue of subpœnas, and of the "dismissals" a large proportion also are struck off for absence of the complainant, after several postponements, it will not be very wide of the mark if we infer that there is an annual attendance at the courts approaching, and perhaps equal to, the whole population; certainly largely exceeding the adult population.'

Absence from the native village for attendance at court, of course means neglect of agricultural pursuits and consequent impoverishment, to say nothing of the direct penalties imposed by the judges, and which year by year mount up to very large sums. To these add cost of legal assistance and of witnesses, &c., and it will be seen how vast was the evil to be met.[1] The

(1) On the other hand, when introducing the Ordinance into the Council, the Queen's Advocate said of this report of Mr. Campbell's:—'He (the Queen's Advocate) believed the figures were somewhat exaggerated; no allowances were made for breaches of revenue laws, which could not properly be classed as crimes, although, for facility of recovery, criminal pro-

great advantage of the revival of village Courts of arbitration (and more than arbitration) was felt on all hands; the obvious impossibility of instituting false charges, as in many of the cases referred to in the figures quoted, before neighbours who must know practically all the collateral circumstances of the case, was clear. Again, the remembrance of these simple means of obtaining justice (the old village council only received its *coup de grâce* in 1843) was yet fresh in the minds of some of the inhabitants; the village elders told the rising generation of the good old times when crops did not suffer through justice having to be sought at the far-away town. All these things combined to force upon the favourable consideration of Government the advantage of harking back to the old paths.

There is no occasion to trust to vague and uncertain tradition for particulars of the old system of 'Home rule' in Ceylon, under which the people flourished, and which was proved by centuries of experience to be well suited to the genius of the different races amongst which it existed. While in some parts of the interior the village republic existed, and the people were prosperous and content, seeing the face of the administrative officer only once a year when that functionary was on revenue tours, in the large towns, less than a hundred miles away, the English jurist system had been grafted on to the Roman-Dutch law, which the Hollanders introduced into the island during their occupancy, and the procedure in the courts was in every respect similar to that in any ordinary town in England. In Ceylon, as elsewhere, the British seem to have thought that the institutions under which they had grown great immeasurably surpassed the laws

ceedings were adopted in respect to them. He referred to prosecutions under the road, dry grain, cattle trespass, salt and such like Ordinances. These were instituted in large batches, and one or two typical cases decided a number of others. No allowance also was made for counter-cases—cases not only between the actual parties, but subsidiary cases between their relations and friends.'

and customs of any people whom they happened to have conquered, and so English procedure in legal matters has everywhere dogged the steps of English conquest. The Tamil and Singhalese law students talk far more glibly of Magna Charta than they do of the ancient laws of their own people. So far as Ceylon is concerned, the English only did as the Dutch had done before them, but they were more thorough than their predecessors. The policy is seldom successful, at least in its earlier stages. The Asiatic, certainly, will not see things from the English point of view, and the good intentions of the ruler is but a small factor in the matter.

In 1873, in order to secure the better administration of affairs in Ceylon, but mainly that an impulse might be given to native interests by the repair of tanks, &c., for irrigation, a new province, the North Central, was created, portions being taken from three others to make this. Mr. J. F. Dickson, who, in the eyes of the Colonial Office, was so efficient that he was offered a prominent post in the Fiji Government on its establishment, but declined it, was placed in charge of the province, and his first report is now before the writer. On proceeding to investigate the province he found that but very faint ripples of the wave of English occupation of Ceylon had reached the tank villages in the hot midland and northern plains of the island; but that he gazed on a state of things similar to that which, in 1679, was seen (and described) by Robert Knox, the first Englishman who visited Ceylon, a state of society which was very ancient even then. Mr. Dickson says:—

'The whole province is composed of a number of small agricultural republics, each of which has its tank for irrigation purposes, with the field below it, and the duty of maintaining the tank with its channels in repair properly by custom devolves on the community, each member being bound to contribute his share of labour in proportion to his share in the field. But under our rule there has hitherto been no simple machinery for compelling the idle and the absentee shareholders, who go and live in other villages, but still retain their claims on the field, to perform their share of

the work. The others are unwilling to work for the benefit of the defaulters, and the work is left undone. To this cause alone much of the present ruin of the tanks is attributable.'

The province in which this state of things was found to exist has for its capital that city of ancient renown, Anaradhapura, so well known to students of oriental history, and which was, without doubt, at one time the centre of the grandest irrigation works known in the world.

Sir W. H. Gregory, whilst Governor of Ceylon, described the ruins of some tanks which he visited, which are almost fabulously large, and the remains of which are stupendous. Contradictory as it may at first sight appear, it was under the reign of despotic kings, who rigorously exacted rajakariya [labour on public works by the people at their own charge], that the greatest material prosperity of Ceylon is to be found, when she exported grain to the Indian continent, instead of being, as now, dependent upon her great neighbour for a large quantity annually of food. With this despotism a great amount of communal freedom was possessed by the people.

Sir Emerson Tennent, in his painstaking and eminently reliable history of Ceylon, says:—

'. . . . Hence every village to the north of the Kandyan zone was provided with one tank at least; and by the provident munificence of the native sovereigns the face of the country became covered with a net work of canals to convey streams to the rice of lands. So long as these precious structures remained intact, cultivation was continuous and famine unknown. But their preservation was dependent, not only on the maintenance of the co-operative village system (a system whose existence was contingent on the duration of peace and tranquillity), but on the supremacy of a domestic Government sufficiently strong to control the will and direct the action of these rural municipalities.'[1]

Mr. H. S. O. Russell, late Government Agent for the Central Province, in the debate in the Legislative Coun-

(1) Ceylon, Vol. II, pp. 433, 434.

cil on the second reading of the Gansabhawa Ordinance, said[1]:—

'At the time when the British power carried the last Kandyan monarch from his throne into life-long exile there existed throughout the Kandyan realm a patriarchal system whereby the administration of each village community was entrusted to the natural leaders of that community. The village elders, with the village headman as their president, met from time to time at a convenient spot where, surrounded, by all who cared to see and hear and criticize their proceedings, they deliberated on affairs of common interest, adjusted civil disputes, and awarded punishment to ordinary offenders against persons and property. Cases of serious crime, rare indeed in those happy days, were reserved for the consideration of the king himself. It is possible that but for the luckless rebellion in 1817 and 1818 the British Government might have recognised by legal enactment, at any rate might not have ignored, the competency of the Gansabhawa in the matters above mentioned.'

And again—

'Moreover, it is a mistake to suppose that the vital principle of the Gansabhawa has ever been utterly extinct. In rural districts the verdict of the village still influences the decisions of arbitrators appointed by our Courts; the Ratemahatmaya echoes it in reports to the Kachcherri, and disputes between members of a family or between neighbours are sometimes referred to it by mutual consent. But, except in matters connected with paddy-land cultivation, the Gansabhawa has no power of enforcing its own decisions, and persons whom they do not suit may set them at nought.'

In a report upon the scheme, before it was submitted to the Legislature, the same gentleman said:—'It may be assumed, then, that a thousand years ago social relations and duties in the English village and in the Kandyan village were regulated, if not by the same system, yet by principles having a common origin and very similar development, and that while in England the system with the lapse of centuries became profoundly modified, it retained, as the Gansabhawa, most of its original features in the Kandyan country to the date when the British Government replaced the last native king.'

There were, therefore, amongst the people all the circumstances likely to make the proposed re-establish-

(1) "The Ceylon Hansard," 1871, pp. 52, 53.

ment of Gansabhawa a great success. 'That the institution has yet a dormant vitality,' said the District Judge of Colombo, in the letter already quoted, 'is attested by a hundred vestiges that are familiar to the courts, especially in land cases.' Opinion generally was ripe for the re-introduction of the old system,[1] the people would be glad to find that new village communities were only old Gansabhawa writ large, and Government moved forward to supply the want by the introduction of an Ordinance by the Queen's Advocate, to which reference will now be made.

Early in October 1871, the draft of the Gansabhawa Ordinance was published in the *Ceylon Government Gazette*, and it was at once discovered that none of its provisions provided for the revival (if anywhere existing, or had existed) of communal ownership, or cultivation of land according to the views of the community. Ancient customs might, however, be enforced by the village council. What the Ordinance proposed to do was to place in the hands of the people a means for the easy and inexpensive settlement of disputes arising out of land occupancy or cultivation, for putting down criminal and other disorder, and for uplifting the moral tone of the community by the establishment of schools and the like. When it was found that the Government were in earnest in their enunciation of this policy, and would not defeat the object held in view by permitting lawyers to appear before the tribunals they proposed to re-create, that proceedings were to take place in the native languages, processes of court and the like being reduced to a minimum, great was the outcry among the lower class of proctors that the craft was in danger.

It was a fault—it may have been merely an over-

(1) A vast number of papers were sent into Government repecting village communities, and all, or nearly all, were of the tenor of those quoted.

sight—of the Government of Sir Hercules Robinson that efforts were not made to ascertain the opinion of the great mass of the people on the subject of the proposed reform: they were believed to be in favour of the proposal, and their acquiescence was assumed. But it was made a matter of complaint, at a subsequent mass meeting of the Singhalese, that the Ordinance was not translated into the native tongues, the Tamil and Singhalese languages. Consequently, information concerning it could only filter to the mass through the English-speaking natives and the few vernacular journals published in Colombo. Still the people were not ignorant of what was being done. There are means of conveying information in the East that the foreigners in the land wot little of. The Indian mutiny of 1857 proved this. Similarly, as rapidly as though the telegraph wire had been laid into every village, the people of Ceylon became aware of the measure affecting their interests then before the Legislature, and informally expressed their opinion as strongly in favour of the proposed Ordinance.

The Village Community.

A copy of the Gansabhawa Ordinance, as finally amended, lies before the writer side by side with the ink-corrected copy used by him whilst the bill was passing through committee of the Legislative Council. The alterations then made are so few, being merely modifications of detail, that the copy as filed in the office of the Secretary of State for the Colonies in Downing Street, London, may be used to denote the intentions of the framers of the measure in the first instance. After setting forth in the preamble that it is expedient 'to facilitate the administration of village communities, and to provide for the establishment of tribunals, with a view to diminish the expense of litigation in petty cases, and to promote the speedy adjustment of such cases,' the Ordinance

proceeds to give the following thirteen sub-sections of clause 6 which will show the details of daily life placed in the hands of the people for their own administration :—

'6. It shall be lawful for the inhabitants of any subdivision, so brought within the operation of this Ordinance, to make, subject to provisions hereinafter contained, such rules as they may deem expedient for any of the following purposes :—

(1.) For the construction, regulation and protection of village paths, bridges, edandas, ambalams, madams, spouts, wells, watering and bathing places, fords and ferries, markets, places for slaughter of cattle, sheep or swine, grounds for the burial or burning of the dead, and for the conservancy of forests, springs and water-courses.

(2.) For constructing and repairing school-rooms for the education of boys and girls, and for securing their attendance at school.

(3.) For regulating fisheries according to local customs.

(4.) For taking care of waste and other lands set aside for the purposes of the pasturage of cattle or for any other common purpose.

(5.) For breeding, registering, and branding cattle, and for preventing cattle-trespass, cattle-disease, and cattle-stealing.

(6.) For the putting up and preservation of land-boundaries and fences.

(7.) For the prevention and abatement of nuisances.

(8.) For the prevention of the use of abusive language.

(9.) For preventing accidents connected with toddy-drawing and the periodical inspection of the ropes and other appliances used for the purpose.

(10.) For preventing accidents by the setting of spring guns.

(11.) For the prevention of gambling, cock-fighting, and cart-racing on public thoroughfares.

(12.) For determining the number of Councillors to be associated with the President in the trial of cases in any sub-division.

(13.) For the enforcement of ancient customs as regards cultivation, and for any other purpose connected with or relating to purely village affairs.

These rules, when approved by Government and published in the Gazette, were to be binding upon all inhabitants of the sub-division, Europeans and Eurasians excepted, and judicial notice by officers concerned was to be taken thereof. These rules were to be made at a public meeting called by the Government Agent; on a requisition signed by not less than ten inhabitants of any village or group forming a sub-division. Manhood suffrage, practically, was enacted; for clause 12, dealing with the qualifications of voters at such meeting for

making rules, provides that 'Every male inhabitant of the village, or group of villages as aforesaid, above the age of twenty-one years, and who shall not have been convicted, within five years before the date of the meeting, of theft, fraud, forgery, perjury, or of any infamous crime whatever, who shall be present thereat, shall be entitled to vote.'

But a property qualification for committee-men was introduced—a bar it may seem to some 'Village Hampden,' whose circumstances are of the poorest when looked at from the outside by English observers, but most consonant with the partly stereotyped life of the East.

Clause 14 provides that 'No person shall be qualified to be elected as a member of committee who shall not be upwards of twenty-five years of age, or who shall not be possessed of real property, in his own right or in that of his wife, worth more than two hundred rupees and who shall have been convicted of theft, fraud, forgery, perjury, or of any infamous crime, or who shall have been dismissed from the public service for misconduct.'

The term of office is confined to three years, but a member is eligible for re-election. Objections to voters to be decided on the spot, the decision of the person presiding being final. All questions to be decided by a majority of votes, the chairman having a casting vote.

THE VILLAGE TRIBUNAL.

This institution, established concurrently with the council of elders for purely village purposes, has to do with the crime of the community, and therefore the first clause (clause 20 of the Ordinance) dealing with this branch of the reform provides for the appointment of a president, to be paid from the general revenue. The oath of allegiance and the judicial oath must be taken by this functionary, who is to have associated with him five (or a less number of) Councillors, the qualifica-

tions being the same as for committee men, and already recited. Civil cases, where 'the debt, damage or demand shall not exceed one hundred rupees,' and criminal cases, such as petty thefts, petty assaults, malicious injury to property, or cattle trespass, and maintenance cases, shall be decided. Power, however, is given to the Queen's Advocate, or his deputy having jurisdiction over the sub-division, to stop the further hearing of a case, and send it to the Police Court by the Court of Requests. The first duty of the tribunal (according to clause 26) is, 'by all lawful means to bring the litigant parties to an amicable settlement, and to abate, prevent, or remove, with their consent, the real cause of quarrel between them.' That failing, evidence may be taken, and the opinion of the councillors given, followed by that of the president. If a difference of opinion exists, the opinion of the president is taken as the decision, but a record is made of the other opinions expressed. A number of clauses provided for the issue of processes for apprehension of offenders follow, as also a statement that the Fiscals' department (in civil cases, and also in criminal where fines have been imposed) shall enforce the payment of the same. To give effect to the desire expressed in the preamble for inexpensive and summary proceedings being taken, it is enacted (clause 30) that, 'The proceedings of these tribunals shall be conducted in the native language, and shall be summary and free from the formalities of judicial proceedings, and it shall be the duty of such tribunals to do substantial justice in all questions coming before them, without regard to matters of form; and no advocate, proctor, agent, or other person (excepting husbands for their wives, guardians and curators for minors and wards, and agents doing business in the sub-division for absent principals) shall be permitted to appear on behalf of any party in any case before such tribunals.' Reports of

all cases are to be sent at regular intervals to the Government Agent.

Such is an outline of a measure which, while doing much for Ceylon, and while improving the status of the people, will yet consolidate British rule in the colony, and Ceylon may, in this case, as she has already done with regard to a decimal currency, set an example to her great neighbour of the Indian continent, an example worthy of being followed.

Of the debate in the Legislative Council which accompanied the second reading of this measure, much need not be said, save that the Ordinance had not many friends on the unofficial side of the House. It was supported, with bated breath, by Sir Coomara Swamy, Tamil member, who, curiously enough, in the following passage, uses language almost identically the same with that employed at Oxford in the same year, and at much about the same time, by Sir Henry Maine. Sir Coomara Swamy said:—'It is not generally known that the mainstay and support of the form of Indian communal Government, whether in town or village, was the caste system, Gansabhawa or punchayets flourished because caste flourished, and they declined when caste declined. What bound small communities together in those days was the very principle which weakened the Hindus as a nation. There are relics of the system to be witnessed even at present times, and in Ceylon. Amongst the Indian settlers in Colombo there is self-government in full vigour. The Chetties call the association by which such functions are exercised, the "Nakaram." Every Sunday night it meets in one of the temples, and disposes of not simply such paltry suits as this bill deals with, but cases of importance, which would otherwise be dealt with by our district courts. And what enables this association to carry out its decrees? It is the caste of the chetties. If either the plaintiff or defendant will

not abide by the decree pronounced by the "Nakaram," their punishment is exclusion from their caste. And this causes a great many annoyances. In India the dhoby would refuse to wash for them, the barber decline to wait on them, whilst the dancing-girl will decline to make her salaams.'

Shortly before the second reading of the Ordinance took place, the natives of a district not far from Colombo, favourably known for the enterprise and energy of its inhabitants, met in the park of a native gentleman, under precisely similar circumstances to the great Hyde Park reform meetings of 1866. The meeting in Ceylon was very largely attended, and the proceedings were mainly conducted in the native tongue. A translation of the proceedings was made, and from this translation one is tempted to make one or two brief extracts, which cannot fail to interest those desirous of seeing how representative institutions work among Asiatics. The meeting was held, as has been said, in the grounds surrounding the house of Mr. C. H. de Soysa, a wealthy Singhalese gentleman. Mr. de Soysa presided, and modestly told the assemblage that he was aware they did not select him on account of his abilities, 'nor on account of the little necessaries of life I own, and which you call wealth.' No less than fifteen resolutions were submitted and spoken to, and, curiously enough, instead of taking the declaratory form familiar to English public meetings, each resolution was made interrogatory: *e.g.*,

Resolution I.—'Is it necessary that we should petition His Excellency the Governor and Council to defer the passing of the Ordinance about village communities, till purport of the Ordinance is known to the inhabitants?'

All the speakers highly praised the British rule, and were most fervent in their expressions of loyalty to the Queen, and equally emphatic was the expression of distrust in many of their own headmen. The following

extract from a speech, delivered in English, by a Mr. Domingo Mendis, a Singhalese who had received an English education, is characteristic of the style of oratory to which young Ceylon devotes itself. He said:— 'Gentlemen, election by votes and trial by jury are not new institutions. I have studied a little English history. Trial by jury, if I am not mistaken, was instituted by King Alfred the Great. You must know, as I am sure most of you were pupils of the Colombo Academy, that the Persians, Greeks and Romans had their senate to check the domineering power of the rulers set over them; and also, as most of you present here will find in the Bible, that when the Jews were under the Judges or Kings, there were men called the prophets between the rulers and the subjects. You must have read how Elijah rebuked King Ahab, and how Nathan rebuked King David in those memorable words, "Thou art the man."' And so on with a confusion of metaphor that was amusing, the speaker pointed out the necessity for supervision of the village councils, if the present headmen were appointed presidents.

Mr. Russell, late Government Agent of the Central Province, was most zealous in his advocacy of the establishment of these village republics, and it was from a district in his province that the first set of rules came to the Governor for sanction. They formed the basis of all subsequent rules, and may profitably be quoted here. Some of the rules should startle the English politician, who is afraid to trust his countrymen with power to compel the education of children, or to attempt to put down the liquor traffic by local voting as proposed in Sir Wilfrid Lawson's Permissive Bill. These rules (save and except Section V, dealing with cattle, which is omitted) are as follows:—

Section I.

The construction, maintenance and improvement of the communal works mentioned in section I of clause 6 of Ordinance No. 26 of 1871, shall be

effected by those persons who are interested therein, and who live within a distance of two miles from the place where work is to be done.

2. If the work concerns only one village, the Gan Arachchi—if more than one village, the Kórála—if more than one Kórála, the Ratémahatmayá—shall summon the inhabitants of such village, Kóralá, or division for the purpose of deciding the nature and extent of work to be executed, and the number of days' labour that each person liable to contribute shall contribute towards it either in person or by substitute.

3. All notices of meeting for the purpose of discussing the matter of executing a communal work, also notices of the time and place where work is to be performed, are to be made by beat of tom-tom. Wilful failure to perform labour is to be punished with a fine not exceeding fifty cents for each day of such failure.

4. All communal paths, bridges, and other properties are to be in charge of the local headman. Fine for neglect of duty on his part is not to exceed twenty rupees.

5. The fine for obstruction or careless or malicious injury of paths, édandas, and other communal works and property, is to be one-fourth more than the cost of removal of obstruction or repair of injury.

6. The fine for cutting timber on grounds reserved for preservation of springs is not to exceed twenty rupees. If the injury be excessive, the man who has illegally felled the timber must be taken to the Police Court.

Section II.

7. At the request by petition of the parents or guardians of twenty-five or more children for the establishment of a school, a school shall be established, which is to be built at the expense of all the villagers within two miles of the proposed school; provided always that a schoolmaster is provided without charge to the villagers. The repair and up-keep of the school-house or room shall be provided for by the levy of a moderate fee from the pupils attending the school, or by labour given gratuitously by the parents or guardians of such children. Any parent who does not send his children to either the village school or any other place of education, shall be considered as being totally unfit for holding any office under Government, or of being a member of a Gansabhawa.

Section III.

8. Any person who shall kill any fish by means of poison shall be guilty of an offence, and on conviction thereof, shall be liable to a fine not exceeding ten rupees.

Section IV.

9. Any person who shall wilfully set fire to any patana or other land set apart by Government for the common pasturage of cattle of the villagers, shall be guilty of an offence, and on conviction thereof, shall be liable to a fine not exceeding ten rupees.

10. Every villager who may be benefited by such land shall, when necessary, contribute his quota of labour or money towards fencing or cutting a ditch, so that cattle may not go out of the limits of such lands, and towards keeping the place in good and proper order for pasturing purposes.

Section VI.

20. Boundaries of lands shall be marked by fences, ditches, or stones. Any person who shall wilfully injure or destroy such boundaries shall be guilty of an offence, and be fined any sum not exceeding twenty rupees.

Section VII.

21. Whoever shall use indecent or abusive language for the purpose of annoying or provoking any person, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding ten rupees.

Section VIII.

22. Not less than three nor more than five persons shall be associated with the president in the trial of cases.

In another instance, the following were among the rules agreed to :—

12. Persons residing on either side of a public road are prohibited from putting dirt, rubbish, timber, mats, copperah, areca-nut, or any other commodity on it, or to keep carts or allow children, too young to take care of themselves, to play thereon.

13. No cart-racing shall be permitted upon any public road, and no vehicle shall be driven thereon without a light at night.

14. Gambling and cock-fighting are prohibited. Every headman is required to prosecute offenders against this rule before the village tribunal, as also all disorderly persons and vagrants; also persons using obscene and abusive language.

15. It shall be lawful for the village headman, under the authority of the committee, to call a proportion of the inhabitants of the village, between the ages of eighteen and fifty-five years, being males, to serve as a nightly patrol, within it, for the protection of the persons and property of the villagers.

16. It shall not be lawful for any person to receive in pawn gold, silver or other articles, without notice previously given to the village headman, and any person who shall discover and bring to conviction any one offending against this rule, shall be entitled to receive five per cent. on the value of property so pawned. If the village headman receives in pawn such articles, he shall give notice thereof to the headman of the next nearest village. The headman shall keep a proper memorandum of such articles, giving a full description of them, as also the conditions and consideration of the mortgage.

With regard to Rule 15, it should be explained that a police force is foisted upon a village by the central Government at the villagers' expense, only when the inhabitants have become turbulent, and are unable to maintain the peace among themselves. As a matter of fact the people generally resent the presence of policemen in their villages.

Again, nearly all the rules contain provisions such as the following:—

8. Boys from six to fifteen years old, and girls from six to twelve years old, shall be sent to schools by their parents, except when prevented by sickness or other material cause; and the parents infringing this rule shall be subject to a fine not exceeding one rupee.

So successful did these institutions prove that in 1875 the successor of Sir Hercules Robinson said, in a letter to the present writer, 'I was recently writing to the Governor of New South Wales, and said that when his epitaph comes to be written it should contain these words:

"*He restored Village Councils to Ceylon.*"'

The credit and the glory belong as much to the Queen's Advocate of the period as to the Governor, and none would be readier to acknowledge this than Sir Hercules Robinson.

No one regretted Sir Hercules Robinson's departure from Ceylon more than the Queen's Advocate. In Sir (then Mr.) William Gregory, however, Mr. Morgan found one whom he came to respect with even greater esteem than his predecessor. To Sir William Gregory, Mr. Morgan was more than he had been to Sir Hercules Robinson. The Queen's Advocate, as one well-versed in the past history of the Colony, stood almost alone in the Executive Council in 1872, whereas in 1865, when Sir Hercules Robinson became Governor, there were knowledge and experience to fall back upon in Mr. C. W. Gibson, the Colonial Secretary. In 1872, the Colonial Secretary (Mr. H. T. Irving) had only been a short time in the island; the Auditor-General too, was a new man. Mr. Morgan became a link which bound the new-comers to the past, and helped to make their rule coherent with the past administration of the colony. In him,

'Old experience did attain
To something like prophetic strain.'

The events of more than a generation were stored in his memory. Reference had only to be made to a particular despatch, and its contents could be described so accurately, and all that followed from it told so fully, that reference to records became unnecessary. To Sir William Gregory Mr. Morgan was as his right hand. Daily the Governor consulted him as to the policy to be pursued. Whilst Mr. Morgan was Queen's Advocate, and in almost daily attendance on the Governor, this could be done easily and pleasantly *viva voce*, and so ready were the springs of information to be turned on and the fruits of experience to be freely yielded that it was not until the Queen's Advocate became Chief Justice, and he was removed from immediate contact with the Governor, that Mr. Morgan's real value was felt. Instances of this will be quoted later on.

With the advent of a new Governor in a Crown colony, there generally ensues a lull in legislation. It takes the ruler some time to grasp the needs of the island, and unless questions have been long pending for settlement and action must be taken upon them, legislative sessions are apt to be tame. Sir Hercules Robinson had reaped the field clean. He had left—so conscientious and thorough was his work—no arrears to hamper his successor. Nevertheless Sir William Gregory's mind speedily found occupation, and among the noteworthy events of his first session was the introduction by the Queen's Advocate of a measure to diminish the sale of intoxicating liquors. This measure was brought forward mainly on the representations of the Colombo Total Abstinence Society, which had prepared a petition against free licensing of drinking shops. The memorial was the most largely signed ever known in the island. In the course of less than two months 32,396 persons signed, the signatures being in the following proportions: 7,382 English, 16,419 Singhalese, and 8,595 Tamils.

Sir William Gregory, in alluding to this measure when opening Council, said :—

'There is one subject more on which I cannot be silent, and that is, the extension of drunkenness throughout the island. English rule has given to Ceylon many blessings, which the inhabitants are ever ready to acknowledge —security of life and property, equality before the law, and just tribunals, the abolition of serfdom, excellent roads to promote intercourse and facilitate the conveyance of produce; but we have at the same time extended a curse throughout the island, which weighs heavily in the other scale, namely, drunkenness. Some years ago, as I am informed, a drunken Kandyan would have been disgraced in the eyes of his fellows. Now the occurrence is so common, that the disgrace has passed away; drunkenness is extending itself gradually into villages where it was before unheard of, and even the women are accustoming themselves to intoxicating drink. I have had some remarkable petitions on this subject :—the first, from the Roman Catholics of Jaffna and other parts of the Northern Province, numerously signed by Europeans and Natives alike. Another petition was recently presented to me by the Rev. John Scott, signed by no less than 32,396 persons—7,382 English, 16,419 Singhalese, and 8,595 Tamils. These petitions, I am glad to inform you, are characterized by moderation and good sense. They do not go to the length of advocating the total prohibition of the sale of spirituous liquors. The petitioners are aware that such an attempt would be impossible. But they say, "Restrict the places of sale, and thus discourage intoxication, and diminish the great moral and social evils which flow from it."

'In these recommendations I warmly concur. In restricting the sale of intoxicating liquors some diminution of revenue must be expected; but, in the words of the petitioners, any decrease under that head would be more than compensated by an improvement in the general well-being of the community, and in the reduced cost of establishments for the suppression and punishment of crime.

'In corroboration of this argument, I may mention that in the majority of cases where the sentence of capital punishment has been pronounced, and which have been referred to me, arrack has been connected with the crime. It is my intention with the assent of the Executive Council, to issue a circular to the Government agents to contract as far as possible, at the commencement of the year, the sale of intoxicating liquors, and to prevent its extension into the rural districts. It is said, that with prohibition, private sale of liquor and private tippling will take the place of the public sale. No doubt we cannot expect to shut out altogether ardent spirits from these districts, but the occasional introduction of small quantities of arrack for private consumption is a very different thing from the effects of arrack taverns flaring and flaunting in the public view, and, as it were, soliciting all comers. The dread of the informer will, in some degree, suppress the illicit sale of arrack, but what I chiefly rely on is the absence of ever ready, ever exposed temptation.

'When in the year 1843, Sir James Graham put down with stern hand the gambling houses of London, it was confidently asserted that if men were

disposed to gamble no legislation could prevent them and that private play would take the place of public; but the Government of Sir Robert Peel thought otherwise, and thought rightly. Gambling became a matter of danger, and public and private play at games of chance has almost entirely ceased throughout the length and breadth of England. I anticipate the same good effects here by imposing restrictions upon drinking shops, though not to the same extent.

'We must, as I said before, be prepared for a slight, but, I believe, a very slight, decrease of revenue, in consequence of curtailing the area in which arrack taverns may be established; but even supposing we are thereby obliged to protract the completion of some works of utility for a longer period, can any work be named more beneficial, more urgent, more accompanied with God's blessing than that of trying to save the bodies and the souls of those committed to our charge?'

The Queen's Advocate, in moving the first reading of the 'Ordinance for regulating the sale of intoxicating liquor,' said: Your Excellency, in your opening speech, adverted to the increase of drunkenness throughout the island and expressed your anxiety to do whatever lay in your power to check the same. Much good will doubtless result from your instructions to Government Agents to contract, as far as possible, the sale of intoxicating liquors, and to prevent its extension into the rural districts. Simultaneously, however, with these efforts as respects arrack taverns, it is necessary to direct attention to the many licensed places in our towns, and even rural districts, where intoxicating liquor other than arrack is sold, and it is with a view to this principally that the present bill is brought forward. Its provisions are chiefly taken from the Licensing Act which has recently been enacted in England—an Act which underwent considerable discussion, and upon the preparation of which, judging as well from its substantive provisions as from those directed to prevent evasions, much care and attention must have been bestowed. The principal provision in force at present regarding these liquor shops is that contained in section 30 of the Arrack Ordinance No. 10 of 1844. No person can sell wine or spirits for the purpose of being consumed on the premises within

which the same is sold without obtaining a yearly license on the payment of rupees 20—so that practically there is no check whatever on shops where liquor is sold not to be consumed on the premises. The present bill goes much further, and proposes to prohibit all sale without license by retail, that is under a dozen bottles of intoxicating liquor, which is defined to include all kinds of wine, ale, and spirits, other than the produce of the cocoanut or other description of palm or sugarcane, for which the Arrack Ordinance makes provision. The license is to be a yearly one, but there is a difference in the rates payable for the same. Places for the sale of beer or porter only are to pay a small sum, say rupees 10 a year; those for the sale of intoxicating liquor generally are to pay rupees 50, and a license of rupees 100 a year are to be levied on hotels in which intoxicating liquor is to be supplied to buyers. These fees are applicable to places, in which liquor is sold not for the purpose of being consumed on the premises; double duty is leviable on places in which liquor is sold for the purposes of being consumed on the premises. Sections from 9 to 26 have reference to these licensed places, the creation of penalties for offences generally arising in or relating to them. Of these I shall only refer to a few of the more important provisions. Ample power is given to Government Agents to withdraw licenses, a power to which I attach far greater weight than to the licensing fee as a means of reducing these necessary evils, and making the existing ones as orderly and as free from crime as possible. Repeated convictions for offences,—selling liquor contrary to the terms of the license, allowing internal communication between licensed places and secret unlicensed places kept for iniquitous purposes, the illicit storing of liquor, permitting drunkenness or disorderly conduct in licensed places, encouraging prostitution in them, taking pledges or any article in barter

for liquor sold, (the great encouragement to petty thefts in our houses and stables), the harbouring of constables, allowing gambling in their premises,—expose the offenders not only to direct penalties, but to a liability to have their license withdrawn. Another provision to which I desire to invite special attention is that which prohibits sale of intoxicating liquor to children apparently under the age of fifteen. It is painful to see young children and women (would that we could prohibit the sale to women also) resort to our taverns and being helped freely to drink there. This, and some of the other penal provisions are made applicable as well to taverns as to licensed liquor shops. Sections from 27 to 33 inclusive are aimed at the adulteration of liquor. Within the last ten years much adulterated liquor has been introduced into, and even manufactured in, this island and in the small shops for the sale of liquor cheap, and nasty brandy and spirits are sold which cannot but be most injurious to health. In 1871 duty was paid on 74,595 gallons of spirit of which 6,858 gallons or 9 per cent. was white or grain spirit. In the first eight months of this year duty was paid on 58,896 gallons of which 6,497 or 11 per cent. was white spirits. The white spirit imported is about 50 per cent. above proof, and with this and (there is too much reason to believe) other deleterious drugs aided by colouring matter a cheap brandy is manufactured, filled in bottles with flaunting labels and sold at cheap rates to the poor in our towns and villages. The *jus stellionatus* of the civil law, adopted in the jurisprudence of Holland, and accordingly in force in this country, prohibits these practices, but it is not always easy to establish the facts necessary to bring home to an offender a charge under the common law. This division of the Ordinance provides against adulteration in the way it is provided against in the English Licensing Act. By the 27th section the mixing

of liquor with any of the deleterious ingredients set out in the schedule is made an offence; but, as the ingenuity of man or the perversity of man will be exerted to discover new ingredients not specified by the legislature, power is given, as in the English Act, to the Executive Government to add new ingredients to the schedule by proclamation from time to time. The other clauses up to the 34th provide means for detecting adulterated liquor. The police authorities are authorised to require samples of intoxicating liquor sold by any person; those samples are to be analysed and, if found to be adulterated, a certificate thereof is to be given which is made receivable in evidence. Sections from 34 to the end contain other general provisions. Two Justices of the Peace are empowered to close places when liquor is sold in case of riot or tumult or apprehended riots or tumults. The hours of closing licensed places are declared. At present they are made to tally with the provision in this respect applicable to taverns—they must be closed after nine at night and up to five in the morning, but power is given to the Executive Government to declare other hours should it be necessary to do so hereafter. Rest-houses, hotels, and refreshment rooms connected with railway stations are exempt from this provision. Large powers of entering on licensed premises are given to the police. These are the principal provisions of the bill now before the Council. It is second to none in importance brought forward either this session or at any former time. It has been your Excellency's privilege to come among us in a time of material prosperity—be it also your privilege when you give up the reins of Government to feel that you have done all in your power to lessen, if you cannot altogether remove, the curse of drunkenness which is fast extending throughout the island and threatening to arrest the moral prosperity of the people committed to your care. All interested in the well-being of the island

regard your utterances on this subject on the first public occasion of your meeting your Council as a pledge that the subject has received and will continue to receive your most anxious and earnest attention.

The measure passed without material alteration, but only a modicum of good resulted. The working of the Ordinance was left to the Government Agents, whose ambition for large collections of revenue is proverbial. What effect this had upon the measure may be readily inferred.

The session of Council was marked by a good deal of agitation. Under the genial presidency of a whilom Irish member of Parliament, honourable members of the Colonial Legislature seem to have felt that they could indulge in greater freedom of debate than they had been wont to do. They exercised this privilege, and the pages of the local *Hansard* contain, in consequence, unwontedly lively reading. Amongst other topics brought forward was a motion attacking the Colombo Municipality. In a speech alleging all imaginable evils against the Municipality, Mr. D. Wilson moved:—

'That it is desirable that a Select Committee of this Council be appointed to take evidence, and to enquire into the working of the Municipal Council of Colombo, from its commencement up to the present time, in order to ascertain whether the institution has been honestly and beneficially worked for the public interests of this city, or otherwise. Also, that it is desirable that all petitions or memorials which have been received, addressed to the Governor or the Government in favour of, or against, the Municipal Council, be laid on the table for the information of this Council.'

The Government opposed the proposal, and the best speech from the official benches was made by the Queen's Advocate. He felt, he said, that it was the duty of those who could bear testimony in favour of the municipality to do so. He was to some extent connected with the establishment of the municipality, and had carefully watched its working; and although mistakes had undoubtedly been committed, a larger expenditure launched

in at first than was prudent, large and ambitious works embarked in whilst moderate ones, more urgently wanted, were comparatively neglected,—yet taking it all in all, the institution had done and was doing, much good, and, in view of its difficulties and very limited means might fairly be regarded as a success. His honourable friend who moved the resolution said that nine-tenths of the people were against it. Did the honourable gentleman himself, or could any man who knew the state of affairs at the time the Council was established and thereafter, reasonably expect any other result? The time having arrived when it was impossible for the general Government to attend to the local wants of particular towns, or for the general revenue to be spent on their improvements, either a separate Government department or municipal institutions were necessary to provide for those wants. The time had arrived when it became necessary for the inhabitants themselves of particular towns to contribute to the conservation and improvement of those towns. Sir Hercules Robinson felt, and the policy was a generous one, that it was best to leave the matter in the hands of the people themselves. The Ordinance which established Municipal Councils enabled them to impose new taxes on private carriages, carts, hackeries, horses, ponies, mules, bullocks, and even asses. It enabled them further to create water rates and lighting rates. The people of Ceylon, like people elsewhere, were apt to betray an 'ignorant impatience of taxation;' and no wonder that they ascribed their new burdens to the municipality. The taxes which were imposed were collected by the municipality with greater promptness than were the Government taxes of old; and this was not calculated to allay irritated feelings. The people of Ceylon, like orientals elsewhere, were equally impatient of sanitary restraints. The Municipal Councils gave their first attention to promote clean-

liness in towns. Each town was divided into wards, and an inspector and subordinate officers told off for each ward, whose duty it was to see daily to the removal of filth and the promotion of cleanliness. Public latrines were established, owners of mills and large establishments were required to provide conveniences for the people they employed, private dwellings were carefully examined, and parties neglecting the sanitary rules prescribed by the Council were promptly prosecuted and punished. All this added to the irritation, and the mass of the people naturally fancied that if they once got the municipality abolished they would avoid all troubles and taxes. This was a great mistake, for, if the work was not done by the representatives of the people themselves, it would have to be done by a separate, costly, and (in all probability) a less efficient Government department. The Queen's Advocate felt that this state of things rendered it the more incumbent upon the educated and thinking portion of the community to disabuse the minds of the people of the erroneous impressions they entertained, and not unreasonably to join in the outcry against the institution. Try to reform abuses if they pleased and to check extravagance and waste. His honourable friend the Colonial Secretary had pointed out one powerful means for gaining this end, and that was that men in high positions, men like his honourable friends, the mover and seconder of the resolution, should themselves join the Council and seek to reform it, and not stand aloof and only find fault with the body. The people must not forget that they owed much to the Municipal Council. Contrast the state of the town at present with its state, which honourable members could not fail to recollect, before 1865. He could answer for Mutwall, which the residents of that locality regarded as the West End of the town, although others affected to look down upon it. It was infinitely cleaner

now than it was before the municipality was called into being. The periodical visits of its officers render the accumulation of filth for any time in any locality simply out of the question. The compounds of the native houses presented a very different appearance now than what they did of old. Contrast the municipal slaughter-houses with the filthy slaughter-houses of old. The Municipal Council thus describe the latter in their first report :—

"The Committee next visited a slaughtering place behind Jampettah Street, and there found a state of things the existence of which is a disgrace to civilization. The spot selected is a piece of ground about 12 feet square, in the midst of as densely populated a cocoanut grove as can probably be found in the island, close behind one of the main thoroughfares of the town; so densely populated that there is scarcely a square yard of ground that is not either covered with huts or embraced within the usual diminutive compounds attached to them. There is not a drop of water in the locality, excepting what is obtained from wells, and from one of these, used as a bathing place, the refuse water flows, or rather rests, in the natural hollow near the slaughtering-stall, in a black fœtid slime, without any exit other than is afforded by evaporation and absorption. The use of water for cleansing the slaughter-stall is clearly out of the question, and there seems to be no pretence of applying it. This 72 feet stall is slightly raised above the ground, and is covered by a cadjan roof. It is separated from a dwelling-house, on the west side, by a path or a space of about 8 or 10 feet wide; on the east, by a space of 5 or 6 feet from another dwelling house running for about 20 feet alongside; on the north from the cadjan fence of a compound probably a dozen yards off. The remaining side is more open, but of course also in the immediate vicinity of dwelling-houses. There is no pretence of troughs of any other corresponding arrangement, and the blood, &c., is supposed to be received into a tub as required. How are the contents disposed of? By being poured or buried in the soil of the narrow passage of 6 feet wide and 20 feet long between the stall and the house, the windows in the back of which (just over this reeking sink) were wide open when visited! It need not be added that the soil gave all the natural indications of such a disposal, that the atmosphere was heavy and abominable, and that a shower of rain must send up from this almost open tomb a reeking steam of corruption poisoning the atmosphere where it may be diffused. It is difficult to over-estimate the fatal power which that spot must exercise upon the population near, and at a distance in times of epidemics. Close by in the street was the shop in which the meat is exposed for sale in this tainted and infectious atmosphere; and the carcase there hung up was of a character with the place it had been slaughtered in, not only unwholesome to a degree, but containing those evidences of positive disease which have been alluded to in former paragraphs as characterizing one of the cases examined. As the private slaughter of goats and sheep in the houses of Sea Street is

very great, it may be conceived to what extent human physique and health is affected by such arrangements. The chief of the police believes that about thirty sheep are daily slaughtered for sale by regular butchers, besides a much larger number slaughtered by private Nattacottiah and other families for their own use,—at a low estimate say four hundred per week.

The descriptions were by no means overdrawn. It was only by God's mercy that epidemics formerly were not the rule under such a state of things. There were now two excellent slaughter-houses where the animals to be slaughtered were carefully examined and none but perfectly healthy ones admitted. The markets are also carefully examined, and the sale of unwholesome articles of food prevented. Owing to the representations of the municipality, several overcrowded burial grounds had been closed. By these means the municipality had done much to promote public health, and it was not generous that, with so much to be thankful for, we should yet do nothing but point to their little mistakes, that we should complain that they spent money on iron roofs when cadjan roofs would have answered the purpose equally; that we should ridicule their principal building albeit some, wanting in taste, of course, might consider that it falls within the description of what the *Saturday Review* would call "Twelfth-Night-Cake Architecture." The Queen's Advocate regretted that he should have taken up so much of the time of the Council, but he could not resist the temptation, before he closed, of reading Sir Arthur Helps' observation on municipal bodies. They were not inapplicable to some extent at least to their own little Council:—

'Many of its advantages are obvious—such, for instance, as the use to be made of special local knowledge which can hardly ever be mastered by a central authority. But there are also great indirect advantages attendant upon any system of political government, in which local government has a large sphere of action.

'In the first place, it compels men who would not otherwise be versed in the functions of Government, to learn and exercise the art of governing. Again, it furnishes employment for those busy, and somewhat restless, persons, who, if they do not find something to occupy their talents in local

affairs, are apt to become agitators in imperial affairs—and, that too, with knowledge very disproportionate to their energy. Moreover, it tends to bring men of different classes together in the conduct of business; and there is hardly any way by which men can become better acquainted, and more readily learn the respective worth of each other, than by being thus associated. Again—and this is a point of very great importance—it tends to make men tolerant in their judgments as to the conduct of imperial affairs. Let a man's sphere of governing be ever so limited, he learns to appreciate some of the difficulties of government in general. He finds how hard a thing it is to make men of one mind, and to get real business of any kind carried forward, when there is great freedom of discussion and of action. Also he becomes cognizant of some of those matters connected with government which only experience can teach. For example, he learns the value, and somewhat even of the money worth, of a good agent. You will find that almost every man who has been concerned in governing, is much more liberal as regards the payment, and the other rewards of agents, than the man who has had no experience in that direction. You will not find such a man joining in a senseless outcry against liberal payment for good work. He has discovered that the first thing is to get good work done; and for this he will not grudge its adequate reward. In a few words, the man who has interested himself in local government, is likely to become a good judge of the proceedings of imperial government.'

He would quote one little passage more; it was one by which Government might profit as well as the public:—

'Now, there is one point connected with this matter to which I must advert, as being that which relates to the very essence of good government. It is, that men of the higher classes should not refuse any opportunity of connecting themselves with local government, however humble may be the sphere of action proposed for them. They should not lay themselves out for election to offices connected with local government; but they should never abstain from serving, when elected. Surely every man's neighbourhood may very fitly be an important centre of his action; and nothing, however minute, connected with the well-being of that neighbourhood, is beneath his notice, or unworthy even of his utmost attention. Besides, he will never have a better opportunity of acting in concert with those placed in a humbler position than himself, and learning what they think and wish for, than he will when dealing with matters relating to local government.'

He had said that the Government might profit by this passage. When the municipality was first established it was intended that some of the heads of the principal departments of Government should join it as the Government nominees, but some made excuses which the Government accepted, and others who joined at first

were allowed for some excuse or another to leave the Council and their places were filled with subordinate officers. He did not desire to find fault with the latter who gave very efficient assistance, but it was not setting a good example to allow the men first intended, to abstain from giving the Council the benefit of their position and assistance.

In company with Sir Edward Creasy, the Queen's Advocate had been engaged for several years in a compilation of all the Ordinances and Proclamations having the force of law in the colony. The task was now completed, and the Queen's printers in England were passing the work through the press. An Ordinance legalising this compilation was necessary. One was introduced, and, in moving the first reading of 'An Ordinance relating to the new edition of the Enactments in force in this colony,' the Queen's Advocate said: 'The new edition of the local enactments is now nearly ready. Great care was taken by the Board appointed to prepare the same to include in it all the enactments in force in this colony, and none of any importance has, so far as we can ascertain, been omitted. But it was recently brought to our notice that two Kandyan proclamations—one relating to thatched houses within the town, and another relating to gem-digging at Saffragam —proclamations which do not appear in any of the printed collections, are still in force, and that they are very useful measures. Under these circumstances it appeared to the Commissioners desirable that the provision should be made to prevent the possibility of mistakes arising from these and like omissions by a slight modification of the enactment No. 6 of 1867, under which this new edition was prepared. According to that enactment the copies when stamped are to be held to contain the only law in force in this colony; the Commissioners consider that it would be safer, for the present at least, to make

such presumption *primâ facie* and not conclusive. Your Excellency has approved of this recommendation and directed the present bill to be laid before the Council. Advantage is taken of this opportunity to remove a difficulty which my honourable and learned friend (Mr. Coomara Swamy) called attention to some time ago. Before the establishment of the present Council, the Legislative enactments were made by the Government, and took the form of Regulations and Proclamations, and, as such, both had force. Under our present constitution all laws must be made by the Governor with the advice and consent of this Council, and take the form of Ordinances. Proclamations by the Governor himself, or by the Governor with the advice of the Executive Council, are only issued in administrative matters to be regulated by the Government, or under powers expressly conferred upon it by the Ordinances passed by this Council. A large number of proclamations under such power have been issued from time to time and are now in force. My honourable and learned friend apprehends that, if these proclamations are not included in the new edition, they will all cease to have force. It was obviously inconvenient to include all such proclamations, referring as they do in the generality of cases to purely local matters, and it certainly was not intended to include them. It was submitted that it was clear from Ordinances Nos. 6 of 1867 and 5 of 1869, that the proclamations referred to in the first-named enactments were the proclamations of a former day which had, in themselves, the force of law. The second clause has been inserted in this bill to put this beyond doubt.'

Two other speeches were made by Mr. Morgan during this session which deserve record. One was with regard to a definition of insanity arising out of a discussion on an Ordinance intended to make better provision for lunatics in the colony. On a point raised by Mr. Coomara Swamy,

viz., the different manner in which medical men and lawyers define insanity,[1] the Queen's Advocate said, that it was quite true that lawyers and physicians meant two different things by the word 'madness.' Mr. Fitzjames Stephens pointed that out very clearly in his general view of the criminal law of England. By madness a lawyer meant conduct of a certain character, different from the normal manner in which all human creatures act. A physician, on the other hand, meant by it a certain disease, one of the effects of which is to produce such conduct. This rendered it the more necessary that they should lay down a simple rule to signify the class of men which this Ordinance sought to bring within its purview, and he had endeavoured, after consultation with medical men and in view of the form of insanity common in the country, to lay down such rules. Most English medico-legal writers hold that restraint is not justifiable except when there is reason to apprehend that the lunatic will injure his person or property, or the person or property of others. We have not gone quite this length here, nor is it desirable that we should. A large number of the unfortunate persons who now inhabit the asylum are perfectly harmless. The first patient one sees in the asylum is a person who had been a coffee planter, one who had lost his estate: he nevertheless asked leave almost every morning to go to it, and had to be told over and over again that he had

(1) Mr. Coomara Swamy quoted the following passage from the *Edinburgh Review* in support of his contentions:... 'The two parties are aiming at different ends. The doctor makes what he calls a scientific definition of insanity, and claims immunity from legal responsibility for every person who may be included within such definition. The lawyer, on the other hand, ought to admit that he does not care whether a given term be scientifically correct of a disordered state of mind or not, but that he has to decide whether it is desirable in the interests of society to make such persons, sane or insane, amenable to legal penalty and disability. Scientifically speaking every criminal who has allowed one propensity to gain at the expense of all other motives, is so far insane, and the ungovernable imbeciles, so well described by Mr. Browne, are but extreme cases of such insanity. A perfectly sane man is as uncommon as a perfectly healthy man, nor can any line be drawn between sane and insane.'

lost it. There was another case of a poor man now wandering abroad, who suffers from this calamity since the loss of his wife. Both these were harmless men, but yet they wanted, and greatly wanted, the benefit of the treatment available at the asylum. As a general rule, the men who would be adjudicated to be of unsound mind would be those who came within the ordinary definition of unsoundness—believing in delusions such as may lead them to injure themselves or others in person or property, but even if such apprehensions could not be established in exceptional cases, the Court should have power to place a man under control if, for his own sake or that of the public, such control should be necessary. It must be borne in mind that under the common law of the land, the Roman-Dutch law, following in this respect the Scotch Law, the old French law, indeed, the law of many nations, recognized the legality of placing persons under control, interdiction, the *prodigus*, the man who extravagantly lavishes and wastes his property. The English law contained no such provision. He did not contend that such persons could be placed under personal restraint or sent to the asylum, but it would be well to bear in mind, before adopting English rules and definitions, that the law here takes a much larger scope in its guardianship of persons suffering from defect of understanding or defects of judgment.

The other subject was the Village Communities' Ordinance, an amendment of which was found to be necessary; a measure to provide this amendment was submitted. It was strongly opposed by Mr. Coomara Swamy, who summarised his chief objections thus:—'It unhinges the principal provisions of the old. Ordinance and contravenes its principle, so that its central ideas, the suppression of false litigation, communal self-government, the employment of natives as magistrates, and the administration of justice in a prompt,

inexpensive, and simple way, and on the spot itself by men best acquainted with the subject, and the peaceable settlement of disputes, are most materially interfered with. It further proposes to disunite things which, in my opinion, do not admit of a division. I should not also forget that it is not fair and just to the old measure to call its efficiency into question so soon after its enactment. I beg, therefore, to move that this bill be read a second time six months hence.' Mr. Wilson seconded the amendment. 'He should certainly support any motion that tended to prevent interference with the Ordinance of last session.'

The Queen's Advocate regretted that in a matter affecting native interests his honourable and learned friend (Mr. Coomara Swamy) did not concur in the view adopted by the Government; but he was not sorry for it for one reason, as it gave him the opportunity to correct the misapprehensions which seemed to exist respecting the measure, and to which his friend had given expression. Any one who had heard the honourable and learned gentleman would have imagined that the Government were endeavouring to get rid of Gansabhawa, and that they regarded the measure of last year as a failure. This was a great mistake, the measure had heretofore proved successful, and he (the Queen's Advocate) could also say, as his honourable friend the Colonial Secretary had said with respect to the Paddy Cultivation Ordinance, that the very success of the measure had induced the Government to bring the present bill forward. Wherever village tribunals were established they had proved successful and had gained the confidence of the villagers. The Government would be but too glad to add largely to their number, but this was not practicable at present. Many official and unofficial persons, whose opinion was entitled to respect, thought that they should proceed gradually in this

direction, and his honourable friend, Mr. Harrison, when he signified the assent of the unofficial members to the measure last year, stated that they were glad that the Government had taken a vote for £1,000 only for the current year, as it showed that they were going to try the measure cautiously. This wish was not confined to the Council alone. It would be recollected that at the meeting held last year at Moratuwa, the people expressed themselves strongly against village tribunals. It was also represented to Government that in some of the outlying provinces it was difficult at present to get men with the necessary qualifications to act as presidents. Under these circumstances it would be clearly not judicious or wise on the part of the Government to establish village tribunals immediately in places where the people were not prepared for them or objected to them. The question then arose whether it was not expedient, in places where these tribunals could not be established to allow the people the privilege at least to make rules for the regulation and management of their village affairs. It was quite true, as his honourable and learned friend had stated, that, in bringing forward the original measure, the Government contemplated the working of the two parts—the administrative and judicial together. It was quite true that the Government felt then, as indeed they feel now, that a Gansabhawa was the best tribunal to try the petty cases of the village; but the question was, whether if a Gansabhawa could not be established in any place it was not better to give the people the power to make rules and allow breaches of those rules to be tried before the ordinary tribunals, rather than deny them the privilege to make rules altogether? It must be borne in mind that however the Government contemplated working the measure, the two parts of it—administrative and judicial, were distinct, and not necessarily dependent upon one another. The

aim of one was to encourage the people to take a part and interest in the management of their own purely village affairs; that of the other was to provide an inexpensive, prompt, and popular method of settling village disputes. Whatever the original intention might have been, the one could be carried out, though perhaps not as effectually, without the other. It appeared to the Government that it would be wise to bring the administrative part of the Ordinance into operation in places where village tribunals would not be established for several years. The power to make rules for the regulation of village affairs was a very salutary one. It enabled the villagers to deal with matters which it would be hopeless to attempt to provide for by general legislation. It was the want of this power—the destruction of every vestige of the ancient system of village government—that lay at the root of the petty litigation of the country, and it was believed that if the power be supplied that evil could be prevented. This object was distinctly brought forward last year by Sir Hercules Robinson and others who supported the measure. Honourable members who had read the rules framed by the village communities heretofore established must have been struck by their adaptability to provide for village affairs. His honourable friend, the Colonial Secretary, had told him that he was amused at the two instances which he (the Queen's Advocate) had brought forward in moving the first reading of the bill; viz., the rules respecting the castration of cattle and the education of children. He had referred to those instances because they illustrated his position that these rules treated effectively on matters which could not be reached by general legislation. They could hardly in these days pass an ordinance making the former, so necessary to procure a good breed of cattle, compulsory, nor could they force parents to send children to schools; and yet,

coming from the people themselves, the provisions were admirable and unobjectionable. It was a mistake to say, as his honourable and learned friend had stated, that the rules were the rules of the Government Agents. No doubt the Agents assisted the people to draw up the rules, no doubt they suggested heads which had to be provided for, but the rules were the rules of the people, agreed to by them. His honourable friend, the Government Agent, Western Province, told him that he was struck with one of the rules which the people of Sina Corle suggested, viz., a rule to prevent the shooting of bats in Crown forests. 'Why do you want to preserve bats?' said he. 'They are very useful,' was the reply, 'in providing manure and in propagating seed.' There was no necessity to refer to speculative cases in which this power to make rules might be usefully employed. A case had actually occurred only last week to illustrate what he contended for. The people of Moratuwa, who objected to the establishment of village tribunals, were anxious for rules to prevent the destruction of inguru, a species of fish largely used as bait. By their ancient customs the right to inguru was reserved to districts within certain limits. The catching of inguru at other than prescribed periods was expressly prohibited. Those customs were now disregarded, and the villagers exposed to loss in consequence. There are no two districts in which the fishery customs are the same. The subject is therefore one particularly suited for village rules. Was it right to prevent the people from making such rules because they honestly objected to village tribunals? The Government thought not. He (the Queen's Advocate) believed that it would be the means of preparing them for such tribunals and of winning them over to them. His honourable and learned friend had referred to anomalies arising from the difference in process and constitution of village tri-

bunals and Police Courts. He (the Queen's Advocate) on the other hand relied on those very anomalies as the means ultimately of multiplying and enlarging village tribunals. Whatever they might say of such village tribunals now, the people would not fail to see their advantages when contrasted with Police Courts. Who, for instance, would prefer to go to a Police Court miles away when his case could be heard on the spot, and by his own people? Who would hesitate between a tribunal, whose proceedings admitted of no delay, where nothing was to be paid for stamps or for proctors, where there was no appeal in the end and counsel to fee, and another tribunal in which he had to undergo all these disadvantages? He felt quite certain that the right to make rules once allowed, the people of Moratuwa before long would clamour for a village tribunal. In matters like these it was wise even to humour the people. It would be ungenerous, as it seemed to him, to deny them partial benefit because they would not accept the measure in its entirety. These were the reasons which induced the Government to bring forward this bill and he personally regarded it as so useful that he would be sorry to see it dropped. He did not think it necessary to answer the objections in detail which his honourable and learned friend had brought forward—such, for instance, as the appropriation of fines, the inequality of punishments, the right of appeal, as these were matters to be considered when the bill was in committee and did not affect the principle of the bill which alone was involved in the amendment which was moved by his honourable and learned friend.

On a division the proposal that the bill be read that day six months was supported by the mover and seconder only.

Early in 1872 Mr. Morgan experienced great sorrow in the death of his mother at a good old age. She had

out-lived all but one of her children, and had had the happiness of seeing her youngest son rise to great distinction. In announcing to his son in England his grandmother's death, Mr. Morgan had a premonition of his own soon-approaching end. He said, 'We are all well, but I am beginning to feel old and desolate, so press on with your studies my boy, that you may soon join us, and God of His great mercy grant that we may have a happy birth-day.'[1]

One result of the visit of the Duke of Edinburgh to Ceylon was the determination of a wealthy Singhalese gentleman to devote the sum of £10,000 to the establishment of an experimental farm to be called 'The Alfred Model Farm.' Upon the committee of this proposed institution, Mr. Morgan had a seat. He describes some of its initial work in the following letter to the Governor, dated 29th March 1871 :—

'We had meetings of the trustees of the Model Farm on Monday and yesterday. I handed the Madras reports to Mr. Smith early on Monday, and he had time before the meeting to read them over. He thought that no object would be gained by asking Mr. Robertson to come over or by deferring the appointment of a Manager; the trial of experiments as to soil and manures which seemed to occupy Mr. Robertson's time, though

(1) An old friend of the family in an obituary notice written for the *Ceylon Observer*, said, of Mrs. Morgan :—'She was ten years old at the time of the cession of this colony to the English, and retained up to a short while ago, when increasing age began to impair her powers of memory, a very distinct recollection of the events of the time. Herself the daughter of one of the most successful medical practitioners of the old Dutch days, of whom it is told that he sacrificed his life by his efforts, benevolent but mistaken, to supplement the want of hospitals by bringing poor cholera patients to his own house, at a time when the disease raged high, from whom he himself caught the infection and died. She with many other girls of her age, was placed in an asylum at Grandpass, under the charge of Dominic Helmers, when the English troops entered the town. She spoke of their triumphal march, and the dissensions among the Dutch and Malay troops and their dissatisfaction with Governor Angelbeck, and remembered with pleasure the delight of her fellow-pupils when the kind, respectful, and disinterested conduct of the English taught them that their new rulers were not the barbarians they were described to be.'

proper in a Government institution, where the return seemed to form no object, was not, in his opinion, the principal object which ought to occupy the attention of the Alfred Farm. We had, in the first instance, to improve the common grasses and cereals of the country and to strive to make the institution financially a success. With such objects he thought Mr. Charles Byrde likely to prove a better man for the present than a new man from England. We agreed therefore to appoint him subject to your Excellency's sanction, and on the distinct understanding that the arrangement was a provisional one. The salary to be £250 (until a house can be built for him on the premises) and a horse allowance of £50 per annum. Mr. Byrde attended the meeting yesterday and agreed to enter upon his duties on the 1st, as we are anxious to extend our operations largely before the monsoon, and the present showery weather is of great help to us.

'The terms of the trust deed were agreed to and the draft will be forwarded to your Excellency for approval.

'Mr. Capper will act as the Honorary Secretary of the Committee of Management.'

The Queen's Advocate did his reputation harm rather than good from his connection with this project, which, thanks to an entire want of appreciation of what a Model Farm should and should not do, has proved a dismal failure. As a means of recording a pleasing episode in the island's history, viz., the visit of the Duke of Edinburgh to Ceylon, the less said about it the better.

Among the Morgan mementoes of this period deserving of permanent record, is a short homily on Psalm

I,[1] which was penned on May 27th, 1872. It was as follows:—

'This Psalm gives a simple and striking comparison between the good and the bad. The imagery employed is vivid but true. The man who disassociates himself from sinners does not walk in their counsel or stand in their way or sit with them, he is in one short but expressive word "happy," like a tree planted by streams of water, that yields its fruits in its season, and the leaf of which does not wither. A tree planted by streams of water, its roots fed by their moisture and imbibing warmth and heat from the glorious sun, what does it do? Not brilliant things to attract worldly applause, but simply answers the object of its being—it yields fruit, and that not prematurely, but in due season. My respected tutor, the Reverend Mr. Marsh, once wrote of me in the class-book which each student of the Academy was obliged to keep for the inspection of his parents and friends. "Too much a creature of excitement—not suffi-"ciently content with common duties and common "events." This may have been my particular short-coming—but it is not an uncommon one. We are none of us quite satisfied with common duties and common events; we are always looking forward for something out of the ordinary, something that the world around us can see and admire, the early and heavy blossom to mark a tree from others in the garden. Not so with the

(1) '1 Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful.

'2 But his delight is in the law of the Lord; and in his law doth he meditate day and night.

'3 And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper.

'4 The ungodly are not so: but are like the chaff which the wind driveth away.

'5 Therefore, the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous.

'6 For the Lord knoweth the way of the righteous: but the way of the ungodly shall perish.'

good man whose hopes are fixed where alone true joys can be found, whose delight is in the law of Jehovah and who meditates on his law day and night, whose desires and aspirations rise above the world and things worldly and who with his trust, fixed deep in the Almighty, is alike unmoved by prosperity or by adversity. He is content to yield fruit in due season—when the fitting time comes. That fruit serves as food for God's creatures and the seed thereof to raise other fruits in their turn; thus, by the mysterious and unobserved but sure working of providence, diffusing present and future good. Man may not observe or be struck with the yield of the tree, but it does nevertheless dispense on all around it its influence for good.

'What a lesson does this teach us—we who are not happy except when we live under and share in the applause of the world! What is the necessary and unfailing consequence of this panting after praise? The world we know, and we feel, is not always just. Often, within the limited experience of each of us, have we been praised when utterly undeserving of praise and blamed for truly meritorious actions. So we shall not always enjoy that which we pant for; we shall receive cold, cruel condemnation when we feel we are utterly undeserving of it, and this makes us unhappy and discontented. Whereas had we early chosen the path of the righteous man, had we, eschewing all confidence in the world and in men, learnt to fix our hopes and joys in that Rock with whom there is no variableness, neither shadow of turning, we should rise above the world's applause as much as its condemnation. We should be content to yield fruit and that, not prematurely or extraordinarily, but in its season—content to do good, not obtrusively, but quietly, yet surely having no other object than God's honour and glory.

'The imagery is continued. The righteous man is like

a tree planted by streams of water that yields its fruit in due season, and the leaf of which does not wither. Wanting warmth and moisture, yielding crop too early or too heavily, the tree suffers, the leaves wither. The tree, on the other hand, bearing its due crop and in due season, the leaves are green, the tree is healthy. So will it be with the righteous.

'And such a man—a man so like the tree which the Psalmist describes—is not only happy but "all that he does prospers."

'The man who can be so entirely spiritual-minded as to be quite unmoved by worldly successes or reverses is certainly to be envied, but it sometimes strikes me that, in aiming to such perfection, we aim at what is quite unattainable. Without detracting in any way from the superior blessedness of being entirely spiritual-minded, yet it will be a consolation and satisfaction to us if we can feel assured of success in our worldly pursuits. We have children and dependents to provide for —most of us wish to do good in our day and generation. It would be re-assuring to us if we could feel confident of success, so far as human means can ensure success, in what we do for the former or in order to attain the latter object. And this verse seems too true to give such assurance. If we would only abandon the ways of the wicked, neither walk in their counsel, stand in their way, nor sit with them, but take delight in God's laws and meditate on them day and night—that is feed on them as insects on a leaf, till the whole heart is coloured by their qualities and shews its food in the minutest fibre of its being, we shall then be happy, we shall fulfil the object of our existence, yield fruit in due season, and lo! whatsoever we do it shall prosper.

'How simple and how easy the course here pointed out and yet how often do we deviate from it to pursue

our own perverse ways which surely lead to disappointment and defeat. I have realized this in my own experience. Having obtained success at the bar, I, in what seemed the due fruition of time, was moved from the bar to the bench, amid the congratulations of friends and to make way for others in the former sphere. It is true that the fixed income was insufficient for my wants but—instead of trying to circumscribe these and keep them under—trusting in God who never fails to assist the just in their efforts, I panted for the Queen's Advocateship. "Let me," I said, "but secure that place and I shall be happy. I shall be able to make ample provision for my family." I gained the object of my heart: my income increased, but, with it, my responsibilities increased in a far heavier ratio, and I have made enemies where otherwise I should have had friends. It often strikes me that it would have been better if instead of setting myself to find out what was best for me, I had given myself up entirely to God and left Him to do what seemed best to Him.

'"All that he does prospers." Does this mean that the good man never fails in his pursuits? That would be belying our own experience, some may say. I am not quite sure of this. I believe that, in the large majority of cases, that which seems to us a failure of God's justice is often a certain proof of it. An unfortunate result follows the well-intentioned act or undertaking of a seemingly good man. We feel, if we do not give expression to the idea that all the good man does does not prosper—but, if we perhaps knew the surroundings of that particular act or undertaking, the motives which influenced it, the deviation from what was strictly right which took place in its inception or progress, we should feel that the consequence was a natural one and such as ought to have been foreseen, and acknowledge that we are short-sighted, but that God is true and righteous altogether.

'But yet God may for his own wise purposes see fit, at times, to direct that all that a good man does may not prosper. We see the sun and admire its majesty and glory, though we cannot stretch forth our puny hands to lay hold of it and examine its make and workings. So let us feeble mortals, whose vision is limited and comprehension imperfect, who are ignorant of the true nature of any act and of the hidden way which leads to it, be content to ascribe what we cannot understand to God's infinite justice and mercy, and let not such exceptions lead us to doubt God's gracious promise that, if we study His laws and dwell upon them, and abandon the ways of the wicked, we shall be happy and all we do will prosper.'

1873 was destined to be Mr. Morgan's final year at the Bar and the last in Council, though he had no conception that this was the case. In both capacities, as lawyer and as legislator, the twelve-month was a busy one. Nevertheless Mr. Morgan found time to write a good deal for the *Ceylon Observer*. Among other contributions "The Reminiscences, Personal and Incidental, as well as the Railway and Other Journeys of our Peripatatic Contributor" stands prominently from the rest. The Reminiscences are lively and interesting, abounding in humour and rich with anecdotal recollections. They will be found in a later section of this volume. Towards the end of the year exciting discussions arose in the Chamber of Commerce on the question of nominating a member whose name should be submitted to the Governor for appointment to the vacant mercantile seat in the Legislative Council. Mr. Wall and Mr. Dunlop, in opposing the nomination, reviewed the history of the contests between Government and the public in times past, and especially stigmatised Sir Hercules Robinson for his action towards the League. The Queen's Advocate, in a series of letters to the *Observer*, took up cudgels on behalf of his late chief, and made a not unsuccessful

defence of His Excellency's conduct. The incident is of interest from the fact, that the discussions in the Chamber were a survival of the League agitation: with this effort the agitation subsided.

In April Mr. Morgan was appointed President of a Commission to enquire into the Survey Department, reports as to alleged mal-administration of the Department having been urged upon the Governor's attention. The Queen's Advocate did not much like the business. The terms of reference were very wide and the enquiry being extremely personal to individuals in Government service, he did not think it would result in any real good, while much irritation would certainly be the consequence of the enquiry. The event proved the justice of the surmise, for, though much evidence was taken, the statements of witnesses were not published, even though asked for in the Legislative Council, nor was a report ever drawn up; considerable irritation was, however, occasioned among the members of the Department.

Two entries in his diary show how the prospect of a seat on the Supreme Court Bench was continually crossing his path:—

'Received to-day a letter from the Governor in very kind terms offering me the puisne justiceship of the Supreme Court to be vacant by the retirement on pension of Mr. Justice Temple. The Governor accompanied his demi-official offer with a private letter in which he said I knew I would not take the place, but felt it right to make it as it would give him an opportunity of placing on record his sense of my services.

'Hot and dusty ride by rail to Kandy. Swan called and told me the —— were very angry at ——'s appointment to Kornegalle. They impute it all to me. Swan added that —— informed him further that I told him that he need not pay his respects to get promotion. Both statements are utterly false.

'Rather late for the Executive Council. Saw his Excellency afterwards and handed him letter declining puisne judgeship, with which he was well pleased. Heard of Mr. Irving's appointment as Governor of the Windward Islands, and of Arthur N. Birch's appointment as Colonial Secretary. Glad at Irving's success, though sorry to lose him. Glad also to hear of B.'s appointment, for I am afraid —— is already becoming too colonial, but otherwise he would have done very well. We are none the worse for fresh blood.'

In September Mr. Morgan was elected President of the Colombo Friend-in-Need Society and attended a meeting in that capacity. He reproached himself for not taking greater interest in the affairs of the Society, and for not having attended the meetings regularly.

During the sessions—ordinary and extraordinary—of the Legislative Council, which commenced on the 30th of July and ended on the 30th of December, the Queen's Advocate spoke forty-six times, according to the *Ceylon Hansard*, and on such subjects as the following :—

Surplus Revenues, Appropriation.
Reply to Governor's Speech.
Sick coolies in Hospital, Payment for.
Museum.
Litigation, Ordinance to discourage.
Coffee Stealing.
Licensing Ordinance amended.
Mahomedan Laws.
Tolls.
Improved Cab Law.
Kataragama Pilgrimage.
Notaries, Law relating to.
Municipal Magistrates.
Plumbago Export Duty.
Training of Advocates.
Sectional Assessment of Roads Committee.
Branch Roads.
Law of Succession.
Registration of Partnership.

The most important among the measures introduced were those mentioned last. The Law of Succession was particularly of great interest and importance. It was only introduced in this session, the first reading being agreed to, in order to give all interested in such legislation full opportunity for consideration. In the course of his remarks, when introducing the measure, the Queen's Advocate said :—'Your Excellency in your opening

speech to Council expressed your intention to bring forward an Ordinance for the administration of estates, not to be passed into law this session, but to be laid before the Council so that it might be thoroughly discussed throughout the island before it became law. The present bill is brought forward in redemption of your pledge. I very much regret that it should have been delayed so long. Although I had the assistance of other laws in preparing this enactment, and particularly of the exhaustive Indian Succession Acts, the difficulties of the subject so grew upon me as I continued to revolve it, that I could not complete the bill earlier. It is satisfactory, however, that no inconvenience has arisen from the delay; we have had so many measures and subjects brought before us during the sessions, the necessity for which had not been earlier foreseen, that we should have hardly had time to attend to it, had it been brought forward earlier. During the interval between the close of this and the commencement of next session, we shall have ample time to consider the provisions of the present measure. The discussion which I trust it will evoke out-of-doors, and the valuable opinions we are likely to have furnished by the Judges of the Supreme and other Courts, and by other legal practitioners, will aid us in the work and assist us in our deliberations when we meet again. In stating the grounds and reasons of the bill, I do not mean to detain the Council with a summary of its entire contents. The great bulk of the provisions are of matters in detail, unimportant in themselves but most convenient to those who have to administer estates and distribute property, and to those who have to see that estates are duly administered and property properly distributed. It is sufficient that I should point out the principal alterations which the bill proposes to make in the existing law, and, for this purpose, it is necessary that we should, in the

first place, have a clear and distinct idea of what the existing law is as to succession. The general principle is that the law of succession of deceased persons as to immoveable property is the law of the country in which such property is situate; as to moveable property, the law of the country in which such deceased person was domiciled. This principle was recognised in this country, and under it the maritime provinces were subjected to the Roman-Dutch law, the Kandyan provinces to the Kandyan law. Exceptions were engrafted on this rule in favour of certain classes of the people. The earlier Tamil settlers in the Northern and (I believe) in the Eastern Provinces also, though this is questioned, had their own peculiar customs founded on the Thesawalamy. The Mookwas, a small class who inhabit some parts of the Malabar provinces, and who came to Ceylon at a very early period of our history from the coast of Malabar, retain their own customs; the Mahomedans, wherever they established themselves, carried their own law of succession.

'This state of things continued until 1844, when the Ordinance No. 21 of that year was brought forward. Its principal aim, and herein lay the merit of the bill, was to put an end to the undivided possession of landed property; but as respects the question of succession it contained some very necessary provisions. (1) It abolished the legitimate portion to which children were entitled under the Roman-Dutch law; (2) it legalized for the first time foreign wills; and (3), in the case of married parties it provided that, where they married without ante-nuptial contract, the law of the matrimonial domicile was to govern all questions as to the rights of the married parties during the subsistence of the marriage or after its dissolution. The belief at the time was that most Europeans came to Ceylon only for a time, and that they married abroad and gained a matrimonial

domicile elsewhere, and the intention of this measure was to exempt such persons from the operation of the community of goods between husband and wife which obtained under the Roman-Dutch law. This provision, so far as it affected questions of succession, was not deemed satisfactory at the time. It affected only married persons. The test furnished was an uncertain one, for it became a question of evidence in every case what constituted the matrimonial domicile of the parties, and evidence not of a fact but of an intention. The general rule, as modified by the Ordinance No. 21 of 1844 continued, however, till 1852, when the Ordinance No. 5 of that year was brought forward. This enactment provided that the inheritance and succession to real property, within the Kandyan province, of Europeans and Burghers dying without wills, and the inheritance and succession to personal property of such persons described within the Kandyan provinces, and dying without wills, were to be determined as if such real property had been situated and the deceased had been domiciled in the maritime provinces.

'At the present moment, therefore, the state of the law as to succession is as follows:—(1), Kandyans, Mahomedans, Tamils, in the northern and eastern provinces, and the Mookwas have their own laws and customs. (2) Married persons are governed as to rights of property during the subsistence of the marriage and after the dissolution thereof by the law of the matrimonial domicile if there be no ante-nuptial contract; by such contract if there be one. (3) All unmarried persons, and those married persons who have no matrimonial domicile are governed as to inheritance or succession by the Roman-Dutch law. The great merit of this measure of 1852, was that it exempted Europeans and Burghers from the operations of the Kandyan law. It was principally to secure this object that the bill was brought forward. The encouraging prospects of coffee cultivation led a

number of Europeans to settle in isolated parts of the country, and some of these formed imprudent connections with native women. It became a question there whether, in view of the cheap and facile mode of contracting marriage in the Kandyan provinces, some of these connections did not constitute legal unions according to Kandyan law, so as to convey the right of the property to the issue of such unions, and it became imminently necessary to provide against such a contingency. Though the bill of 1852 put an end to all doubt on this subject, yet it failed to furnish a distinct and uniform rule of succession applicable to all, exempting those who had their own peculiar customs preserved to them. Such a rule was deemed expedient for several reasons. Settlers in a country had no right to see such fundamental rules as those of inheritance and succession relaxed in their favour, and there was the less reason why this should be done in this country as the objection of Europeans to the Roman-Dutch law was chiefly owing to the community of property between married persons which it inculcated, and this objection could be easily got over by married persons entering into an ante-nuptial contract beforehand or executing a joint will afterwards.

'Impressed with these views the then Queen's Advocate brought forward in 1863—the first year he held office as such—a bill in which it was proposed that (saving the peculiar customs aforesaid) the Roman-Dutch law as to the inheritance of and succession to property of persons dying without will should apply to all. He little calculated what opposition this would provoke. The Judges of the Supreme Court sat upon him, and protested vehemently against the abolition of the matrimonial domicile provisions and the extension of Europeans of the hateful community-of-property doctrine. The European portion of the community took arms against him almost to a man, and it is reported of one of them—a successful planter now

enjoying his *otium cum dignitate*, a confirmed bachelor then and still, that he resented the attempt as a personal injury, and would hold no communication whatever with the proposer of such a measure for years afterwards. It did not suit the Government of that day, with its *quieta non movere* policy, to go on with the measure against such odds, and it was quietly shelved, to the intense disgust of its author. No further change in the law on this subject was afterwards proposed, so that the law at present is what it was after the enactment of 1852.

'In preparing the present bill the first question which suggested itself was the expediency of laying down an uniform rule of succession applicable to all; but it was deemed best to abandon this idea. In the first place there was the old opposition to be avoided. (2), Whatever might have been said of the alteration made in 1844, it has now been in force for nearly thirty years, and, as Europeans mostly retire and settle and die in England, and their property is distributed there, whereas the bulk of the inhabitants are governed by the Roman-Dutch law, the objection is not practically felt and becomes one more of sentiment than reality. It would not be right on such a ground to change the existing law. The observation of Sir James Mackintosh as to Government applied equally as to laws. "They grew like trees and could not be made like machines." It is not desirable merely for the sake of uniformity to change any existing system. This provision of the Ordinance of 1844 is therefore retained, but it is sought to render it more certain by providing that the actual domicile of the husband shall be held to be the wife's matrimonial domicile until the intention to make their permanent residence elsewhere be clearly proved (clause 15). It is also proposed to leave Europeans exempt from the Kandyan law and subject, in the case of persons who have not acquired a matrimonial domicile, to the Roman-

Dutch law. It will, no doubt, be asked why make the community of property applicable to Europeans in any way? In answer to this it is necessary first to consider the nature and effects of community. It is open to parties contemplating marriage to determine the interest which each is to take in the property of the other or in the property acquired during coverture. If they do not take this precaution, the husband and wife become, by operation of law, joint tenants of their united fortunes, each being the owner of an undivided half of the whole joint estates during the continuance of the marriage; the dominion of the property was in the husband during such continuance, and he dealt with it as absolutely as if it were his own. But the death of either dissolved the partnership, and the heirs of the dying person became entitled to his or her half. For myself, I think the rule that the wife should be entitled to a half is a very wise and just one. In the case of persons commencing life without property nothing can be more just. It is in such cases that, as a rule, there are no ante-nuptial contracts which are almost always entered into where there is property on either or both sides. The husband is, no doubt, the more active agent in earning the income, but the wife, less obtrusively but equally effectually, assists, by housewifery and thrift, to make the most of what is earned and to provide for the future. It is not easy for a man to be rich unless his wife cordially co-operates with him through life. Nor should the fact be lost sight of in considering the merit due to both in working for the common interest that, whilst the husband has the love of fame and the promptings of ambition to gratify, and to reward him in the end, all the aspirations of the wife are limited to the domestic circle for whose benefit alone she toils and labours. Her being entitled to an equal share in the joint property, secures for her the attention she is justly entitled

to from a husband, and more important still the affection and reverence due to her from her children when the husband is no more. It is true that there are asperities in the working of the rule which have to be removed. It is not right that the death of the wife should suddenly paralyse the husband in his business and force him to a division of the estate. It is not just that, in the absence of children, the heirs of the wife shall absorb her half. These I have endeavoured to provide against in the bill before the Council. The right of the children is made a hypothecary right to a share in the net value of the common estate, the management and dominion remaining with the husband (sec. 23) and in case of there being no children, the husband is made the owner of the entire property, except in the case of the wife having herself brought property, half of which will go to her heirs. It was once a question whether the former rule was not in force under the Dutch law. There is an old decision to that effect, and such is the rule at the Cape of Good Hope where the Dutch law prevails; but our later decisions are to the contrary effect, and give the children a share in each individual property, in each house and garden. After laying down the general rule as to succession the Ordinance proceeds to prescribe at length the rules of succession—either the North Holland or the South Holland rule being followed as seemed most just. The great change proposed by the bill is that to be found in clauses 275, 276 and 280. I have already stated that the principal object of the Ordinance No. 21 of 1844 was to provide against the possession of property in undivided shares. Executors were compelled to divide property which they had to administer, and if a division was impracticable to sell the same; there was to be no undivided possession of shares of lands of persons dying after that Ordinance came into operation. Had this Ordinance been allowed to remain in

full, it would have done more than any Act in our Statute book to change the habits of the people, and to put an end to the ruinous litigation in which they now indulge. But the Ordinance was frightfully emasculated in 1852. Great inconvenience was felt in carrying out a portion of the Ordinance which provided for the sale of an entire property where an undivided portion was seized in execution. Instead of strengthening the Fiscals' Department and the Courts so as to make them equal to the work, or at least abolishing this particular provision, the then Government decided on repealing all the clauses relating to the partition of landed property.

'The unofficials, myself then a humble member of that body, strove hard to avert the impending blow, but it was of no use—the Government prevailed and the most valuable portions of the bill were struck out. The pulverising process has been going on since and increasing in intensity. What belonged to one man then devolved from him to his children, say nine—each having an undivided ninth. Each undivided one-ninth had again to be divided among the children of these nine children, and so on, until a wretched piece of land about an acre in extent comes to be owned by more than a hundred persons, so that law-suits have been actually brought for 1-370th share of a piece of land or the 1-90th share of a cocoanut tree. In 1863 the partition clauses of the Ordinance of 1844 were re-enacted in a new partition bill; the division by executors belonged to the Succession Bill, the fate of which I have already described. I have re-inserted it in the present bill, and trust that the clause will be adopted. Some philanthropic individuals, among others one who has passed away from us, but whose position as a lawyer and a public man gave great weight to his opinion, Mr. Charles Lorenz, consistently advocated the introduction of the law as to primogeniture. To this, however, I am strongly opposed. It

is not suited to the genius of the people and I believe, with Adam Smith, that, though fit to support the pride of family distinctions, yet nothing can be more contrary to the real interest of a numerous family than a right which, in order to enrich one, beggars all the rest of the children. It is a very different thing, however, to put an end to the possession in undivided shares of landed property which, in the mode in which it is practically worked, is a bane to all improvement and a fruitful source of litigation and impoverishment, and therefore calling for the interference of the legislature.

'Connected with these provisions is that relating to entails. The bill proposes to prohibit entails or *fidei commissa* in favour of more than one person. If the heirs have no object in improving property held in undivided shares, there is still less object in improving entailed property held by several, to go afterwards to a third party, and so well known are the effects resulting from this state of things that entailed properties in this country, are, as a rule, in a dilapidated and ruinous state, each heir trying to get as much out of it as possible and contributing as little as possible for its benefit. This part of the bill further provides for *fidei commissa* terminating at the end of the third generation and empowers the district courts to terminate them on the application of the heirs. The bill further proposes to prohibit direction to accumulate property and bequests to religious or charitable uses except under certain conditions (secs. 98 and 99.) I have seen wills containing most absurd directions to accumulate. In the administration of estates the necessity for appointing administrators is obviated in cases of estates worth under rupees 2,000. The heirs may themselves administer estates, and thus avoid unnecessary expense. These are the more important of the changes which the Ordinance proposes to make in the existing law.'

Minor topics spoken upon by the Queen's Advocate during the session were; (1), the Coffee Stealing Bill; (2), the Law relating to Notaries; (3), the Training of Advocates; and (4), Royalty on Plumbago, the only mineral which the island yields.

A graphic description of the manner in which coffee beans were stolen, rendering a repressive act necessary, is found in the following words:—

'From the very nature of the case, the crime was one which it was easy to commit and difficult to detect. Large tracts of land under cultivation could not be as carefully watched over as a small enclosed garden. The cultivation could not be carried on without admitting into the estate large numbers of men, women and children who had easy access to the trees when loaded with fruit, or to the stores where the fruit was gathered, and who could as easily dispose of what they took. A handful taken by each cooly would soon accumulate into bushels, and cause serious loss to the owners. Many had lost and were daily losing large quantities of coffee. Just as the season came round, boutiques were opened, or temporary shelters put up in wayside places, to which Moormen and low-countrymen resorted for the purpose of getting stolen coffee. Every temptation was offered in these dens to coolies to barter coffee for rice, currystuff, cloth, arrack, and, as the return shows, even biscuits, beer, and that vile stuff called brandy, which is the staple of the liquor shops in the country. A recital of the means resorted to and the artifices practised by coolies, especially women, to convey stolen coffee would be more amusing than becoming. Under the circumstances there was, as it appeared to him (the Queen's Advocate) every condition to justify special legislation: the crime fearfully on the increase; one in its nature easy to commit and difficult to detect; the land which produced the article not such as could be protected by ordinary fence, wall, or enclosure, to which, on the other hand, a large number of labourers must be freely admitted; the articles such as could easily be removed and easily disposed of, and not capable of being ear-marked and identified; and lastly, the loss affecting one of the most valuable interests in the colony.'

Other points were thus referred to:—

'The Government was bound as a matter of policy to protect the coffee interests by every legitimate means. No one would regret more than the Queen's Advocate if the native interests were injuriously affected by the measure, but he did not anticipate such a result. His honourable and learned friends laboured under a misapprehension when they said that the Kandyan would be prevented by this bill, if it passed, realizing the little coffee in his garden, and thus lose a fair source of profit; such would not be the case. It was the buying, and not the selling, of coffee without a license in a proclaimed district which was prohibited; it was the habitual receiver against whom the enactment was directed. If the Kandyan was under a contract to deliver coffee to any one there was nothing in the Ordinance to

prevent his carrying out the contract; nothing, in the absence of a contract, to prevent his taking his coffee to the best market. He did not wish to enter into the objections urged against the different provisions, as they would be more conveniently considered when the Council went into committee and took up the bill clause by clause. But he would remark that, as respects open warrants, the objection was more against their abuse in execution than against the process; they would only be issued in proclaimed districts and upon an oath of two or more respectable persons.'

When this bill was sent to the Colonial Office in London for sanction, Mr. Coomara Swamy was in England, and made most strenuous efforts to prevent sanction being accorded, but did not succeed. It is very probable that he would have succeeded, but Mr. Birch, the Colonial Secretary, arrived in London at this juncture on leave, and reassured the mind of the Secretary of State as to the advisability of according sanction to the measure.

The first reading of the Ordinance to amend the law relating to notaries afforded the Queen's Advocate an opportunity to make a most interesting speech. The office of notary, he said, was one of very great importance under the civil and canon law. The notary was anciently a mere scribe who only took *notæ*, notes and minutes, and made short drafts of writings and other instruments, both public and private. At present he has to confirm and attest the truth of any deeds or writings in order to render the same authentic and valid. So high was the importance attached to the office, that a notary was deemed equal, under the canon law, to two witnesses, and under our law it would seem he was deemed equal to three witnesses, for a will, to be valid, must be executed before a notary and two witnesses, or before five witnesses. Massinger, improving on all this, makes Sir Giles Overreach in his 'New Way to Pay Old Debts' to say, 'I know thou art a Public Notary and such stand in law for a dozen witnesses.' The office existed in Ceylon in the time of the Dutch Government, and one of the articles of the treaty at the capitulation of Colombo in 1796, provided for the validity and preservation of

notarial papers. From what we hear of those who practised then as notaries, the office even then deserved the distinction which Cicero in his day accorded to it when he classed it as 'honestus.' Whether such a distinction can justly be accorded to the Ceylon notary of the present day, is fairly open to question. Doubtless men of the highest respectability and worth have practised and still practise as notary; but it must, on the other hand, be admitted that a very large number have gained admission who are utterly unfit, either as regards character or professional attainments, to fill the office. This is to a great extent owing to the provision, in the last Consolidating Act (No. 16 of 1852) respecting the apprenticeship and examination of candidates. An excellent enactment otherwise, and doubtless adapted to the state of things twenty years ago, those provisions are too loose for the circumstances of the present day when the profession is overstocked, and a higher class of men is wanted. The examination is, by the Ordinance, entrusted to the District Judge who, in his turn, entrusts the work to any two proctors. The consequence was that the examination became a mere matter of form and most incompetent men were admitted. Apprenticeship to such men was sufficient to secure admission to others in their turn, so that the evils grew as time went on. These were represented to the Government by Agents and others, and latterly several petitions were received from natives calling attention to these and other mal-practices connected with notaries. The present bill is brought forward to remedy these evils. Apprenticeship under a notary simply will not qualify a person to be made a notary. He should be apprenticed to a Proctor or Advocate of the Supreme Court. This will secure the training of pupils by the superior class of men who now practise both as Proctor and Notary in the principal towns. The first qualification is

that the notary must be a man of good repute. Whether this matter of repute and a preliminary general examination should not be held before a man is articled, instead of at the end of the term, is a fair question for consideration when the bill goes into sub-committee. The examination is to be entrusted to any person or board specially appointed by the Government. It was the intention of the Governor to refer the examination to the Board of Examiners appointed by the Judges to examine Proctors, who are very careful in examining candidates; but this is a question to be fully considered hereafter. Larger powers are conferred on the Governor and Executive Council to remove peccant notaries than they possess at present, and the necessity for this too has been impressed upon the Government by a recent flagrant case, which occurred at Avishawella. The only other important change proposed by the draft bill is to make the yearly certificate subject to a stamp duty of £2. At present the duty is only ten shillings in principal towns, and two shillings in other places.

A wish to improve the status of the Colonial Bar by demanding evidence of certain desirable qualifications in Advocates led to the introduction of an Ordinance to give effect to particular rules of court touching the admission of Advocates. The Judges of the Supreme Court were empowered to make rules on this subject, but no rule could take effect until confirmed by an Ordinance; at present it was open to any person, whether trained for the Bar or not, and without a day's apprenticeship, to apply to become an Advocate, and, if he passed a certain examination, he was entitled to be admitted. On the other hand no person could be a Proctor or Notary without serving an apprenticeship of two years. In England no one could be called to the Bar without keeping his terms, attending lectures, and passing a certain examination. The necessity for making some provision on this

subject in this island was submitted to the Judges, and they forwarded the rules which were then submitted to Council. Under them no person could be admitted as a law student without satisfying the Judges that he was a person of good repute and had received the education of a gentleman. He must also pass an examination in the English and Latin languages and general English history. Having been admitted a law student, he could pursue no other occupation but must attend to his law studies; he would have to attend three courses of lectures on jurisprudence, including international law, and on Roman law. He must further attend the Chambers of a practising Advocate in Colombo for twelve months, and must, when he applies for admission, produce testimonials from the Advocate as to his diligence and good conduct while such pupil, and of his demeanour and character as a gentleman. Before he was admitted, he must stand a full legal examination prescribed by the 17th rule. The Council of Legal Education was to be composed of the Judges, the Crown law officers, and such other gentlemen as the Judges might name from time to time. Certain fees were imposed to be appropriated for the expenses attending the examinations, and lectures, and the balance was to be given to the law library. Special rules were provided to meet the case of pupils presenting themselves in 1874 and 1875.

The speech regarding the royalty on plumbago—a piece of retrograde legislation—was in the following terms :—

The high prices paid for plumbago and the recent discovery of mines in several districts had given an importance to the trade in this mineral which it did not formerly possess. The Council was aware that the Crown claimed royalty on all plumbago, whether dug from Crown or private lands. The right to exact royalty on plumbago dug from private lands was recently disputed, but the District Court of Colombo upheld such right, and its decision was confirmed that very day by the Supreme Court in Appeal. There was formerly but little difficulty in enforcing the payment of this duty; fraud was no doubt practised but not to any great extent. As, however, the product increased and larger profits were derived from it, the ingenuity of

the dealers was set to work to try how best to evade payment. The subject had been pressed upon the attention of the Government, and it formed one of the topics discussed at the May Conference, when the Agents met the Governor in Kandy. After considerable discussion the Government came to the conclusion that the present mode of collecting the royalty could not be maintained much longer, as it not only led to large evasions of the just dues of the Crown but—what was of greater importance—to most demoralizing practices. Among the natives, a man wanting a license to dig applied first to the Kachcherri. The application was referred to the local headmen for report, and the license given or withheld according to such report. The land had then to be trenched on all sides so that there might be no mistake about the boundaries. The digging went on for six months, and the licencers had to get the report of the headmen as to the quantity dug by them according to which they made payment of the royalty to the Kachcherri. These applications gave the headmen an opportunity to extort money from the applicant, and they, in their turn, bribed the headmen to get reports for smaller quantities than they actually obtained, so that they might cheat the Government by paying less than its due. Thus a wholesale system of extortion or bribery was carried on. Recent enquiries into certain frauds in the Pasdum Korale had disclosed the fact that the headmen generally,—he regretted to say from the highest to the lowest,—and both sellers and purchasers, shared in the frauds which had been practised. No change of details, it was believed by the Agents and others who had a practical knowledge of what was going on in those villages, would help to remedy these evils, unless perhaps by a lavish expenditure of public money, bearing no fair proportion to the aggregate royalty realized. This would be unfair to the public. The Government had therefore no alternative but to give up the royalty and to substitute therefore a moderate export duty which it was the object of their bill before the Council to propose. He believed that the proposed change would give great satisfaction to the natives who would by it be relieved from the restrictions and impositions to which they were now exposed and would enjoy entire freedom to mine. He (the Queen's Advocate) was, however, aware that much objection was felt to the imposition of an export duty in certain quarters. For himself he believed (though perhaps a lawyer's opinion was of no value in such a matter) that the objection to an export duty in this country was more theoretical than practical, more sentimental than real. It was a mistake to apply, in dealing with an ignorant oriental population, all the principles of political economy as they obtained among an educated European community. The former was better accustomed to an indirect than direct taxation, and liked it better so far as they could be said to like any taxation. But the proposed duty fairly complied with the conditions which ought to be kept in view in imposing taxation. The State was, by the law of the land, entitled to one-tenth share of metals and minerals; the present mode of collecting that share exposed the producers to oppression and led to the frauds he had described. The export duty was proposed as a substitute. Whether an *ad valorem* or a fixed duty was determined upon (and upon that point the Government would be glad to receive the suggestions of the sub-committee,) the tax, calling it by that name, would be equal, there would be no uncertainty with respect to the

amount to be levied, and this amount would be levied at the most convenient time, and in the most convenient and inexpensive manner. Further, as the duty was only a substitute for the royalty, the home producer would not be placed at a disadvantage with the foreign, which was the great objection elsewhere to an export duty. To these considerations must be added the great gain which would accrue to the producer in the withdrawal of vexatious restrictions, and in the freedom to mine secured to them, and, to the public generally, in the cessation of the demoralising practice that now obtained largely in the mining districts. He (the Queen's Advocate) had heard it stated that one effect of the export duty would be to impose a tax on the merchant which should properly fall, as it then did, on the producer. But this seemed to him to be an argument more amusing than convincing. He thought that the British merchant might be fairly left to take care of himself: he was not likely to trade in an article from which he could not derive a legitimate profit. If he had to pay the value, plus the export duty, he would take very good care to make allowance for this item in the price which he paid for the mineral.

SIR RICHARD MORGAN'S WORK AS A LEGISLATOR.

The Ceylon Legislative Council, created in 1833, was the first assembly of the kind formed in Asia, and, as a preface to a recital of a number of the Ordinances which stand on the Ceylon Statute Book as memorials of Sir Richard Morgan's labours as a legislator, a brief review of the work the institution has done may be of interest. The moral, social, and political advancement of the colony is bound up with the Council: only as that Council is broadened and brought into harmony with the increasing prosperity of the island can the advancement of the people in a real and solid sense be expected.

I.

AN OPEN LEGISLATIVE COUNCIL: FORTY-FIVE YEARS' WORK.

'There is no more important institution in the island 'than this Council. Whatever be the estimation in 'which it is held by the official or unofficial community 'here, I know that it is held in high estimation by Eng-'lish statesmen, who look to it as the centre of much 'good. Mr. Bright has referred to it in eulogistic terms.'[1]

(1) Doubtless this allusion is to the following passages from one of the Right Honourable John Bright's speeches on India, delivered in the House of Commons on June 24th, 1858. Alluding to Presidency Councils, the honourable member said:—'I should propose to do that which has been done with great advantage in Ceylon. I have received a letter from an officer who has been in the service of the East India Company, and who has told me of a fact which has gratified me much. He says:—"At a public dinner at Colombo in 1835, to the Governor, Sir Wilmot Horton, at which I was present, the best speech of the evening was made by a native nobleman of Kandy, and a Member of Council. It was remarkable for its appropriate expression, its sound sense, and the deliberation and ease that marked the utterance of his feelings. There was no repetition or useless phraseology or flattery, and it was admitted by all who heard him to be the soundest and neatest speech of the night." That was in Ceylon. It is not, of course, always the best man who can make the best speech; but if what I have read

'And on the extension of English liberalism, as involved 'in the establishment of Colonial Councils, even Lecky, 'the historian, has many a thrilling period. It will be a 'disgrace, therefore, that in a British dependency any 'misunderstanding should prevent the full development 'of liberal institutions of which Englishmen are so proud 'that they have conferred them on us; and of which the 'natives of this country should be equally proud, in that 'they find in them the nucleus of self-government.'

These words were uttered in stentorian tones by a Tamil legislator (Sir, then Mr., Coomara Swamy) in whose voice could not be traced the slightest foreign accent. The occasion was the discussion of a motion impliedly censuring the authorities for curtailing the period of the session, and the remarks were made on a hot, oppressive afternoon in December 1872; the scene

could be said of a native of Ceylon, it could be said of thousands in India.'—*Speeches of John Bright*, vol. i., p. 52. Again, (pp. 104-105, Speech II): —'Take the Presidency of Madras for instance. Let arrangements be made by which that Presidency shall be in a position to correspond directly with the Secretary of State in this country, and let every one connected with the Government of Madras feel that, with regard to the interests and the people of that Presidency, they will be responsible for their protection. At present there is no sort of tie between the Governors and the governed. Why is it that we should not do for Madras what we have done for the island of Ceylon? I am not about to set up the Council of Ceylon as a model institution —it is far from that; but I will tell you what it is, and you will see that it would not be a difficult thing to make the change I propose. The other day I asked a gentleman holding an office in the Government, and who had lived some years in Ceylon, what was the state of the Council? He said it was composed of sixteen members of whom six were non-official and independent, and the Government had always a majority. He added that at the present moment in that Council there was one gentleman, a pure Singhalese by birth and blood, another a Brahmin, another a half-caste, whose father was a Dutchman and whose mother was a native, and three others who were either English merchants or planters. The Council has not much *prestige*, and therefore it is not easy to induce merchants in the interior to be members and to undertake its moderate duties; but the result is that this Singhalese, this Brahmin, this half-caste and these three Englishmen although they cannot outvote Sir Henry Ward, the Governor, are able to discuss questions of public interest in the eye and the ear of the public, and to tell what the independent population want, and so to form a representation of public opinion in the Council, which I will undertake to say, although so inefficient, is yet of high importance in the satisfactory government of that island. Why is it that we can have nothing like this in the Councils of Madras or Bombay? It would be an easy thing to do, and I believe that an Act of Parliament which would do it would lay the foundation of the greatest reform that has yet taken place in India.'

was the Legislative Council Chamber of Ceylon, where, around a large table of a horse-shoe pattern, sat sixteen gentlemen, ten officials, six unofficial nominees: the assembly was presided over by the Governor of the colony, *ex-officio*. Over all, pendant from the star-gilt ceiling, swung slowly a heavy punkah, which contributed towards slightly cooling the fervid temperature. The remarks, to a stranger, might seem a little magniloquent so far as the present Council as an aid to liberalism is concerned. Such, however, is not altogether the case. It is true that so apathetic have the inhabitants of the colony shown themselves about the farce of representation which obtains in the assembly, that only on rare occasions do the public go to hear the speeches or witness the procedure. Yet the institution has a history of its own which is worth telling: a description of the work it has done will show that it has existed to good purpose, and that the time has now come when it should give place to a House more in accordance with the times, and, what is of greater importance, with the improved position of the people and their increased fitness for a measure of self-rule. Ceylon is a Crown colony, and a Crown colony is described in an authorised publication, 'The Colonial Office List,' as a colony 'in which the Crown has the entire control of legislation, while the administration is carried on by public officers under the control of the Home Government.'

When in 1833, Ceylon was entrusted with a deliberative Council to assist the Governor in legislation, the island bore but little resemblance to the actively commercial and busily intellectual country it now is. The only article of export of commercial importance was cinnamon. This was a monopoly in the hands of Government, and upon good prices being obtained for it depended whether there would be a deficit or surplus when the year's accounts were made up: the authorities

were, for the nonce, dry goods' traders, watching every fluctuation in the market with feverish eagerness. Little communication was had with the interior, which was full of mountains covered with dense forests; roads there were practically none, save the great artery formed by Sir Edward Barnes, the aorta of island communication. The plains outside the mountain zone were inhabited by an ignorant population of agriculturists, ignorant from their isolation; while all over the land, the Buddhists priests were sunk in sloth, and altogether unmindful of conferring 'merit' upon the people by calling them together to hear 'bana.' The finances of the island were burdened with a heavy military charge, and deficits were chronic, the island being saved from almost Turkish bankruptcy by a series of successful pearl fisheries. Taking the year 1834 as the first in which a record of schools appears in the annual Blue Book, by reference to a few statistical statements an idea of the position of the colony may be obtained. With a revenue of £377,952 there was a military force of 6,227 men to be provided for. In 1875, the revenue was £1,354,123, and the fighting force just overtopped one thousand. In 1834, thanks to the earnest efforts of the missionaries, there were 1,105 schools (800 were private schools, receiving no Government aid) with 13,891 scholars. Forty years later, and herein is, perhaps, the greatest lapse of duty on the part of the English rulers of the island, there are (1874 returns) only 1,458 schools with 66,385 scholars, while from 1863 to 1871 the number of schools was once as low as 716 and always below one thousand.

The annals of forty years ago are undeniably dull, and pall upon the student of contemporary records. Further, the Governors' speeches, in which one expects to find the largest range as well as the greatest height of the life of the period, seeing they profess to give a bird's eye of the affairs of the colony during the periods of Council

sessions are disappointing: during perusal the supposition grows upon the reader that a merchant's circular, dealing with an article of commerce, *viz.*, cinnamon, and having a few extraneous subjects introduced to give colouring and interest, has been substituted for a vice-regal speech.

The redeeming feature of the period was the great activity of European and American missionaries in the pulpit and educationally. It does not follow that they were more active,—they were not nearly so many in number,—then than now; but, in those days, so few figures passed across the stage, and the scene was so seldom changed, that the missionaries occupied a more important place in history than they do now, when the boards are crowded and the stage is diversified with a multitude of groups representing many interests. Scarcely anything touching the Ceylonese appears in these speeches until Mr. Stewart Mackenzie was Governor: the intense sympathies of a man of more than ordinary culture, a ruler in advance of his times, led him to hew at what was left of the structure of domestic slavery, and to hasten its early fall.

In 1829, so unsatisfactory was the state of affairs in Ceylon that a commission, consisting of Lieutenant-Colonel Colebrooke and Mr. C. H. Cameron, was appointed by the Home authorities. The immediate occasion of the appointment of this commission would seem to have been the financially disastrous position of the colony, already alluded to. In 1827, the revenue was £264,375 and the expenditure £411,648, while in the previous year the deficit was £115,879, nearly half the income, which would be much as if Sir John Strachey were, in the Indian Legislature, to state in March or April next[1] that whilst the revenue for the year was £50,000,000, expenditure had run up to nearly £90,000,000!

(1) This was written (and a portion of these facts published in the *Calcutta Review*) early in 1877.

In the first days of the new Council, as has been already described (vol. I, chap. 2), dissatisfaction arose; the Governor, Sir Robert Wilmot Horton, not filling up the seats of unofficials till the third session, whilst a memorial from aggrieved British merchants regarding this grievance was treated with scant justice. This treatment from such a man was the more surprising as Sir Robert Horton had been a member of a Liberal administration in England, had been a Poor Law Commissioner (his book on Pauperism is useful to the Poor Law Reformer of the present day,) and was altogether a man of whom quite the contrary of that which marked his career in Ceylon would naturally be predicted. The boon of assisting in legislating was given so grudgingly that all grace was taken from the gift, while it was shown in a memorial to the Secretary of State that, had the unofficial seats been filled up, as the memorialists contended they ought to have been, two Ordinances which were passed in the first session, which bore hardly upon the people at large, would have been shorn of the injustice which marked them. Leave to introduce bills was also asked for, but refused—to be granted, however, nearly a score of years later. While there was much in the infant institution to excite ridicule, in some things it commanded admiration.[1] For instance, from the first, the meet-

(1) The rules and orders for the Legislative Council of Ceylon, are of a liberal nature, as will appear from the following extracts :—

I.—GENERAL RULES.

1.—Notice shall be given, by publication in at least two consecutive Gazettes immediately preceding, of any meeting of Council, except in cases of emergency, or when adjourned at a previous sitting to any particular day. And at the time of such first publication, notice of the day fixed for the meeting shall be sent to each member by the clerk of the Council. * * *

6.—As soon as six members, exclusive of the Governor, or the member who is to preside, shall be present, after the hour appointed for a meeting of Council, the Governor, or if he shall signify that he is prevented from attending, the member who is to preside, shall take the chair; and will direct the clerk to commence the proceedings by reading the minutes of the previous sitting, which shall thereupon be confirmed, or corrected, and settled.

7.—Should a quorum of members not be present at the expiration of half an hour from the time appointed for the meeting, or at any time during the

ings were open to the public, the reason for this being publicly stated, *viz.*, that inhabitants of the island and people in England might know what was going on. The House of Commons, in spite of Mr. Sullivan's efforts to the contrary in 1875, has not yet reached this honestly-

sitting, the meeting shall stand adjourned to one o'clock on the next following day, Sundays and holidays excepted.

8.—With the exception of questions of privilege, which shall take precedence of all other matters, the business of Council shall be taken in the following orders; namely, 1 petitions; 2 notice of motions; 3 questions; 4 motions; 5 Orders of the day, as set down in the Order Book; unless by permission of the president, and on good reasons being shewn, a deviation is allowed.

9.—The Governor, or in his absence the presiding member, shall preserve order; and shall decide on all disputed points of order.

10.—On the motion of any member, though not seconded, 'That strangers do withdraw,' all strangers shall withdraw.

III.—PETITIONS.

15.—Petitions may be presented to the Governor or presiding member, by any member immediately after the proceedings of the previous sitting shall have been read and confirmed. Provided that there shall be endorsed upon every such petition a certificate signed by the member presenting it, or by some other member of Council, that in his opinion the petition is throughout perfectly respectful, and deserving of presentation.

16.—It shall be competent for any member to move that such petition be read; but in making such motion, he shall state concisely the purport of the petition, together with his reasons for wishing to have it read. And, such motion being seconded, the question shall be put, whether the petition shall be read.

17.—In any case where individual rights or interests may be peculiarly affected by any proposed Ordinance, all parties so affected may be heard, upon petition before the Council when in committee, either in person or by counsel.

18.—When it is intended to examine any witnesses, the petitioner or member of Council requiring such witnesses, shall deliver to the clerk, two days at least before the day appointed for their examination, a list containing the names, residence, and occupation of such witnesses.

19.—The evidence of every witness shall be taken down by the clerk, and read over to the witness, who may then desire any correction to be made; and in case no such correction shall be made, the evidence shall stand as taken down, and not be altered afterwards.

IV.—QUESTIONS AND MOTIONS.

20.—Any member desiring to ask a question or make a motion, shall (unless in the course of a discussion, or, in a case of emergency, by leave of the Council,) give notice of such question or motion, either at some previous sitting of the Council, or by a note in writing to the clerk, at least two days before the day on which he intends to ask such question or make such motion.

21.—Every member, in giving such notice, shall deliver to the clerk a copy of the proposed question or motion.

22.—In putting any question, no argument or opinion shall be offered, nor any fact stated, except in so far as may be necessary to explain such question.

avowed stage of publicity. Reporters in the imperial Parliament are still there on sufferance only.

The benefits of free trade were early recognised—and that is nearly all, for fiscal arrangements which necessitate the existence of farming of taxes on locally-grown rice, whose exactions and impositions can only be described in what appears to be strong language, but is a

23.—In answering any such question, a member is not to debate the matter to which the same refers.

24.—When a motion has been made and seconded, and the debate thereon concluded, the question thereupon shall be put to the vote by the presiding member.

25.—Any motion, not seconded, may not be further debated, and no entry thereof shall be made in the minutes.

26.—A member who has made a motion, may withdraw the same by leave of the Council.

27.—A motion which has been withdrawn may be made again at any time during the session; but no motion shall be proposed which is the same in substance as any motion which, during the same session, shall have been resolved in the affirmative or negative.

V.—RULES OF DEBATE.

28.—No member shall be permitted to read his speech.

29.—Every member shall, in discussing any question, address the president, and shall stand while so doing.

30.—A member in alluding to any other member must do so without naming him; but official members may be designated by their appointments.

31.—If two or more members rise to speak at the same time, the president shall call on the person entitled in his opinion to pre-audience.

32.—In discussing any question no member shall be at liberty to speak more than once, except in explanation, or when any bill is under discussion in committee. But a reply shall be allowed to a member who has made a substantive motion, not being an amendment.

33.—All imputations of improper motives shall be considered as being highly disorderly; and such conduct shall be minuted in the journals, if it shall appear to a majority of the Council to be necessary.

34.—An adjournment of the discussion of any question may be moved by a member at any time, and, if seconded, shall be forthwith put to the vote.

35.—Every amendment shall be reduced into writing, and handed to the clerk by the member proposing the same.

36.—No amendment shall be proposed upon an amendment which is under discussion.

37.—On any question being put, every member present shall be bound to give his vote, beginning with the junior member present,—the clerk of the council minuting the vote of each member; after which the Governor or presiding member shall declare the number of votes for or against the question.

38.—It shall be competent for any member who is in the minority, to record the reason of his dissent from the opinion of the majority; and the same shall be entered by the clerk at the end of his minutes of the day's proceedings.

The remaining rules—39 to 65—deal with *VI—Select Committees, VII—*

mere statement of facts, still flourish in full force, while imported food bears a burden which falls heavily on the poorer classes of the community.[1]

What cannot fail to strike the reader of the 'Governors' Speeches'[2]—next to the very ordinary nature of their contents, until Mr. Stewart Mackenzie introduced a practice which once marked the chief orators of the House of Commons, *viz.*, quoting from the ancient classics, and reciting lengthy Latin sentences,—is the erratic dates at which the Council met. Cause for surprise, however, is taken away, when it is observed that the colony was then so much of a military post, and little else, that the principal measure of one session was an Ordinance providing bullock carts as a means of transport for troops. A sort of controlling power over the public purse was given in 1839, but it was not until ten years later that Earl Grey announced, in a despatch, the truism that none were so well able to properly spend a nation's money as the legislators of that nation; yet, in little more than a decade of years later, the unofficial members

Bills, and *VIII—Progress of Bills*. Only rules 46 to 50 showing powers of unofficial members in introducing bills need be given here. They are as follows:—

46.—Any member desiring to introduce a bill other than a Government bill, shall apply to the Council for leave to do so, stating at the same time the object and leading features of such bill.

47.—Every such application shall be made in a form of a motion, and the member making such application shall at the same time deliver to the clerk a copy of his motion, containing the title of the proposed bill.

48.—Leave being granted, on a question put and carried, the member desirous of introducing such bill, shall deliver a copy thereof to the clerk; and a day shall thereupon be fixed for the first reading thereof.

49.—The bill shall thereupon be published in the Gazette, and circulated amongst the members, and laid upon the table, as hereinbefore provided with respect to bills generally.

50.—Government bills shall take precedence in the order of the day over all other bills; unless the Governor shall be pleased to direct otherwise.

(1) A measure for the abolition of the farming of taxes, but retaining the imposts on food, was promised for the Session of Council beginning in September 1878.

(2) A collection of speeches addressed to the Legislative Council of Ceylon—1833 to 1876—printed at the Government Printing office, Colombo, by order of Sir W. H. Gregory, K.C.M.G.

resigned in a body, because the vote for military expenditure was controlled in London instead of at Colombo. Jealousy in this respect is very keenly felt; and the session of 1875-76 was marked by a strong expression of public opinion,—stormy personal debates and divisions, because the Secretary of State added £400 a year to the pension of the retiring Chief Justice, Sir Edward Creasy, without consulting the colony. An Ordinance to cover this payment had to be withdrawn, pending the publication of despatches for which permission had to be sought from England.

Under pressure through the Council and otherwise, avowed Government connection with paganism (the Kandyan Convention of 1815 necessitates some connection still) in Ceylon came to an end.

Privilege was precious to the budding legislators of Ceylon as it is to, say, the 'superior person' of St. Stephen's, Westminster; and when in 1840, certain members wished to protest against the passing of an Ordinance, when all the forms of the House had been complied with, Governor Stewart Mackenzie said:—'I hold that, in point of fact, in this as in every other deliberative, which is also a legislative, assembly (except, perhaps, the House of Lords in Great Britain), the only legitimate protest of any member is his vote against the measure under discussion, which, as the names and votes are regularly taken down, forms his recorded protest.' Two facts may be mentioned which bear out the correctness of the opinion expressed by the Colonial Governor, *viz.*,—*(a)* Professor Thorold Rogers' 'Protests of the Lords,' and *(b)* Mr. Plimsoll's protest against the abandonment of the Merchants' Shipping Bill in the House of Commons in 1875, which protest was refused acceptance by Mr. Speaker Brand, and only found its way to the public through copies being given to the reporters to the newspapers.

Railway formation; Military expenditure,—(the conduct of Home authorities in this respect, as has been stated, was very ungracious); Tank Restoration; Land Registration; creation of Municipalities, large (in cities and big towns), lesser (in minor towns), and least (village councils); have been the other topics which have most exercised the minds of members of the island legislature. Viewed in whatever light one may choose, the railway has been most potent in its influence on the land, a type of the material works which help mental and moral progress in the present age. The Ceylon Railway has greatly opened up the country to Europeans and Ceylonese; it has brought hitherto partially-antagonistic races together; and has done much to advance the colony almost to the level of more progressive, only because entirely Anglo-Saxon, communities, till there are now few countries to which Ceylon need yield the *pas*. Ceylonese travellers contribute the large passenger totals, which it is the pride, annually, of the Traffic Manager to record: it is the produce of the estates owned and worked by Europeans which contributes a handsome quota to the gratifying result of a large surplus every year.

Consequent upon the strides made in the past few years, equalling what had taken two decades or a generation previously to achieve, a rapid glance at the legislation of the past six years, as recorded in the local *Hansard* volumes,[1] may not be inappropriate.

(a) Finance.

The custody of the purse and the holding of the purse-strings is altogether in the hands of Government. Honourable members have the right of closely scrutinizing every item, a right they exercise with much persistency, and often with great good to the public. The theory is that no money shall be spent until the sanction of the legislature has been obtained; but this is not always

(1) Vols. I to VI of the *Ceylon Hansard*, Colombo.

adhered to, and supplementary ordinances to cover expenditure already incurred, are not unknown. The revenue is, all things considered, large. If a similar amount were raised in India, proportionate to the population, hundreds of millions sterling would be available for the disposal of the Finance Minister. In addition to rupees 16,000,000 now raised as general revenue, there are municipal taxes and various local cesses which, in a measure, would correspond with the local expenditure of Presidencies and Native States on the continent. However, it is useless to carry on the comparison between the money-chests of little Ceylon and huge India.

Upon some classes of the community, and they among the poorest, taxation falls heavily; in the case of a cooly with a wife and one child living in Colombo, one-twelfth of his year's wages is absorbed in taxation. This is so unjust, and is capable of such facile adjustment, that the anomaly surely cannot exist long after full light is thrown upon it. Indian publicists, acquainted with the outcry, almost rebellion, which followed in India on the imposition of a direct money-tax (on incomes), on visiting Ceylon, generally express almost incredulous surprise on being told that the cooly, in common with all other able-bodied males, save immigrant coolies, annually pays in hard cash the equivalent of six days' labour, for the up-keep of the roads. The author of the measure enacting this was Sir Philip Wodehouse, late Governor of Bombay; it came into operation in 1849. A great injustice involved is, that the rate is not graduated, the wealthy merchant or high-placed civilian paying exactly the same as his cooly or horse-keeper; no more, no less. During the past few years, surpluses of large amounts have overflowed in the treasury, and most has been spent in 'public works of acknowledged utility,' as the legislative formula runs. The following table shows the main sources of revenue and expenditure :—

Estimate of the Revenue and Expenditure of the Colony of Ceylon, for the year 1876.

REVENUE.	Rs.	Cts.
Arrears of revenue of former years ...	250,000	0
Customs	2,800,000	0
Port and Harbour dues	100,000	0
Land sales ...	760,000	0
Land revenue	1,000,000	0
Rents, exclusive of land ...	400,000	0
Licenses	2,000,000	0
Stamps	1,110,000	0
Taxes	45,000	0
Postage	5,000	0
Fines, forfeitures, and fees of court...	86,000	0
Government Vessels	50,000	0
Sale of Government property	1,350,000	0
Reimbursements in aid of expenses incurred by Government	300,000	0
Miscellaneous receipts	280,000	0
Interest	150,000	0
Pearl Fishery	.....	
Special Receipts	8,000	0
Receipts by the Crown Agents in London	5,000	0
Railway Receipts	2,750,000	0
	13,449,000	0
Draft from Balances	1,451,917	73
Do. Surplus Funds ...	58,416	50
Do. Loan Board Funds ...	34,986	53
Total.. Rs.	14,994,320	76

EXPENDITURE. *Charges sanctioned by Ordinances Nos. 1 of 1870 and 8 of 1872.*	Rs.	Cts.	Rs.	Cts.
ESTABLISHMENTS.				
Civil	1,143,871	75		
Judicial	628,635	0		
Ecclesiastical	87,200	0		
Public Instruction	41,750	0		
Medical	104,702	0		
Police	23,500	0		
Prisons	10,650	0		
Convict Establishment	15,705	0		
Colonial Store	25,821	25		
			2,081,335	0
Sanctioned by Ordinance No. 12 of 1867.				
Contribution towards Military expenditure	.....		1,300,000	0
Sanctioned by Ordinances Nos. 9 of 1869 and 6 of 1870.				
Railway Interest and Sinking Fund ...	.....		618,666	0
Charges voted by the Legislative Council in Appropriation Ordinance for 1876 ...	.....		4,000,091	0
	.....		9,448,608	15
			13,448,609	15
Works charged on Balances	.....		1,451,917	73
Do. Surplus Funds ...	.....		58,416	50
Do. Loan Board Funds ...	.....		34,986	53
Surplus Revenue	.....		890	85
Total...Rs.			14,994,320	76

COUNCIL CHAMBER, COLOMBO, 15*th December* 1875.

ARTHUR N. BIRCH, *Colonial Secretary.*